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ABSTRACT

This resource notebook presents samples of training materials and local policies and procedures and is intended to accompany an overview document which provides information on California legislation concerning surrogate parents in special education. Part 1 provides a summary of special education laws, services, and parent and student rights. Part 2 covers responsibilities and rights of surrogate parents, the appointment process, and tips for effective involvement in their assigned student's assessment and individualized education program. Administrative considerations are the focus of Part 3 which covers: the legal mandates, issues to address locally, sample appointment procedures, sample policies and local plans, sample forms, interagency communications, relevant codes and regulations, and the Attorney General's 1991 opinion regarding surrogate parents and mental health services. Sample administrators' training materials including suggested agenda and overhead transparency masters comprise Part 4. Part 5 consists of surrogate parents' training materials such as suggested agenda, a sample flyer, activities, evaluation form, and overhead masters. Part 6 lists resources for surrogate parents including state and national agencies, organizations, and periodicals. A glossary of acronyms and terminology in special education and a bibliography of 10 items complete the manual. (DB)

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SURROGATE PARENTS IN CALIFORNIA SPECIAL EDUCATION

A RESOURCE NOTEBOOK

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Surrogate Parents in California Special Education

A Resource Notebook

EC 301425

SURROGATE PARENTS IN CALIFORNIA SPECIAL EDUCATION: A RESOURCE NOTEBOOK

This document was edited and prepared for dissemination by Resources in Special Education (RiSE), a cooperative project of the California Department of Education, Special Education Division, with California State University, Sacramento.

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PREFACE

Surrogate Parents in California Special Education: A Resource Notebook was developed to assist administrators of local education agencies (LEAs) and special education local plan areas (SELPAs) as they develop and implement policies for surrogate parent appointment procedures. It is a compilation of local pioneering efforts intended as resource materials for LEAs/SELPAs endeavoring to fully implement the Individuals with Disabilities Education Act (IDEA), CFR 300.514, and Chapter 182, California Statutes 1990 (AB 1528).

This Resource Notebook is intended to accompany *Surrogate Parents in California Special Education: An Overview* which provides more definitive information based on California legislation. The information and materials contained in this notebook are intended only as samples of training materials and local policies and procedures. They are in no way meant to be prescriptive or binding. The information contained herein is provided as an example of locally-developed resource materials.

The Resource Notebook has been structured for easy access to the various modules which may be used for training and/or information dissemination.

PART 1: SPECIAL EDUCATION IN CALIFORNIA
An overview of special education laws, services, and parent and student rights for parents and surrogate parents

PART 2: SURROGATE PARENTS IN SPECIAL EDUCATION
Responsibilities and rights of surrogate parents, the appointment process, and tips for effective involvement in their assigned student's assessment and IEP

PART 3: ADMINISTRATIVE CONSIDERATIONS
The legal mandates, issues to address locally, sample appointment procedures, sample policies and local plans, sample forms, interagency communications, relevant codes and regulations, and the Attorney General's December 24, 1991 opinion regarding surrogate parents and mental health services

PART 4: ADMINISTRATORS' TRAINING MATERIALS
Suggested agenda and masters for overhead transparencies

PART 5: SURROGATE PARENTS' TRAINING MATERIALS
Suggested agenda, sample flyer, activities, evaluation form, and masters for overhead transparencies

PART 6: RESOURCES FOR SURROGATE PARENTS
State and national agencies, organizations, and periodicals

PART 7: GLOSSARY
Acronyms and terminology common to special education

PART 8: BIBLIOGRAPHY
Helpful reading for surrogate parents

It is hoped that this information will be helpful to local special education administrators charged with implementing surrogate parent appointment programs. The information has been presented in a 3-ring binder format so that as laws change and new resources and information are collected they can be easily inserted. It is anticipated that federal regulations regarding eligibility criteria for special education programs and services will soon be promulgated, but unfortunately, at the time of printing were not available. When this information is published, it can replace the criteria currently in the notebook.

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Surrogate Parents in California Special Education: A Resource Notebook is truly a collaborative product. The original document was compiled by:

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I am certain you will find this a useful resource.

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PART 1: SPECIAL EDUCATION IN CALIFORNIA

INTRODUCTION

Every student with exceptional needs in California has a right to a free appropriate public education.

For students with identified exceptional needs, special education services provide the opportunity to develop academic, intellectual, vocational and self-help skills commensurate with their individual capabilities. The California Education Code describes Special Education as:

> Specially designed instruction, at no cost to the parent, to meet the unique needs of individuals with exceptional needs, whose educational needs cannot be met with modification of the regular instructional program, and related services, at no cost to the parent, which may be needed to assist such individuals to benefit from specially designed instruction. Special education is an integral part of the total public education system and provides education that promotes maximum interaction between handicapped and nonhandicapped pupils which is appropriate to the needs of both. (E.C. 56031)

It is important that parents are involved in the education of their children. Parents and educators are partners in planning for the special needs of each child. Under state and federal laws and regulations, parents are guaranteed the right and the opportunity to participate in the assessment of their child, in program planning and placement meetings, and in continuing program review and evaluation.

As partners, parents:

- Refer their child for assessment if they believe their child has a disability which may require special education services (from birth through age 21)
- Provide informed consent for the assessment of their child
- Contribute to the assessment of their child
- Participate in planning the instructional program — individualized education program (IEP) — for their child
- Provide consent for services for their child
- Be actively involved in the continual review of their child's progress
- Appeal on behalf of their child, if they disagree with the child's identification, assessment, instructional program, or educational placement
- Seek assistance to find additional support from other community agencies.

All school districts and county offices of education in California are required to provide a free appropriate public education for all individuals with exceptional needs, ages 3-21. Many of these children need special education services in addition to, or different from, the regular program. Through special education, instructional techniques, materials, and equipment are adapted to meet the individual educational needs of students with exceptional needs. In addition, special education services may be available for children from birth on if the child meets certain criteria and services are available.

Students receiving special education and related services are educated with nondisabled peers to the maximum extent appropriate. They are integrated, as much as possible, in school activities and regular classroom activities as determined by the IEP team. If separate facilities and services for students with exceptional needs are necessary, they are comparable to those provided for regular education students.

Special education programs and related services are provided to students with exceptional needs at no cost, except for those fees that are charged to regular education students. Services are provided in an appropriate setting as close to the student's home as possible. When the IEP team agrees that transportation to a more distant school, class or center is necessary, such transportation is provided without cost.

LAWS AND REGULATIONS AFFECTING SPECIAL EDUCATION

Federal Laws

Rehabilitation Act of 1973

Section 504 of the Federal Rehabilitation Act of 1973 provides that no program, including educational programs, which receives federal money, may exclude a person with disabilities from participation in the program, based solely upon the person's disability.

Education of the Handicapped Act

Public Law 94-142

In 1975 P.L. 94-142, the Education of the Handicapped Act, was passed. It established a national policy that education, as a fundamental right, must be extended to all children with disabilities. This law mandates that all children with disabilities shall be:

- provided a free and appropriate public education
- educated in the least restrictive environment based on individual needs

The provision of services by P.L. 94-142 includes these conditions:

- A culturally unbiased, valid assessment.
- An Individualized Education Program (IEP). (See the Individualized Education Program page 16.)
- Due process procedures to ensure parent and child rights. (See Parent and Student Rights page 20.)

P.L. 94-142 has been reauthorized as the "Individuals with Disabilities Education Act" (IDEA). (See below.)

Public Law 101-476

In 1990 several amendments were made to Part B of the Education for the Handicapped Act (EHA, P.L. 94-142). These amendments are contained in P.L. 101-476 (20 U.S.C. Sections 1400-1485), the Education for the Handicapped Act Amendments. The more significant changes include:

1. P.L. 94-142 has been revised and is now entitled the Individuals with Disabilities Education Act (IDEA).
2. The term, "handicapped" in the Act has been changed to the current preferred term "disabled." Further, in accordance with the trend for using "people first" language, terminology under the Act has been changed. For example, "handicapped children" under the Act are now referred to as "children with disabilities."
3. The amendments recognize some new classifications pertaining to students with disabilities, including "autism" and "traumatic brain injury."
4. The amendments list as additional related services that are required to be provided under the Act: social work services and rehabilitation counseling.
5. The amendments also added as related services "assistive technology devices" and "assistive technology services" which should be considered in conjunction with one another. They are defined as:

- Assistive technology device — any item, piece of equipment, or product system, whether acquired commercially off-the-shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.
- Assistive technology service — any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology.

6. Another amendment of potentially significant impact is the requirement that, where appropriate, transition services must be addressed in IEPs. Transition services are defined as:
   - A coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.
   - The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

Under the amendment, transition services must be included in an IEP once the child turns age 16 and must be provided in the IEP before the age of 16 when appropriate.

Code of Federal Regulations

Title 34 of the Code of Federal Regulations, Part 300

Often after a law is passed by the Congress and signed by the President, regulations are written to provide more detail and direction on how the law is to be implemented. Part 300 of the Code of Federal Regulations, Title 34, contains the regulations for Part B of IDEA. These regulations address such topics as:

Free appropriate public education

Individualized education programs

Procedural safeguards

Least restrictive environment

Confidentiality of information

State and local application processes for federal funds

State Code

California Education Code

Part 30 of the California Education Code was rewritten in 1980 primarily by SB 187 (Rodda). This bill appealed all former special education categorical programs and authorized statewide implementation of the Master Plan for Special Education. Since then, 69 legislative measures have passed — modifying California's special education laws.

Chapter 26.5 of the Government Code (A.B. 3632)
Government Code Chapter 26.5 was established in 1984 to address interagency responsibilities for related services for children with disabilities. Local agencies — mental health, social services, California Children Services and education — coordinate services, develop local interagency agreements, participate in due process actions and share staff developmental activities.

California Children Services provides assessments and occupational and physical therapy for children who require "medically necessary therapy."

Local mental health agencies provide mental health services including assessments for children with disabilities and residential treatment programs for children who are seriously emotionally disturbed.

Services provided under Chapter 26.5 are considered to be related services, and, as such, may be added to a child's educational program by the individualized education program team with the concurrence of the providing agency.

California Code of Regulations
State regulations governing special education are primarily in Title 5 of the California Code of Regulations (CCR). Title 5 became effective March 1981. Substantive amendments were adopted in March 1988 and in September 1991.

SPECIAL EDUCATION SERVICES

Identification and Assessment Process

Identification/Referral

Each district special education local plan area (SELPA) or county office shall provide for the identification and assessment of an individual's exceptional needs and the planning of an instructional program to best meet the assessed needs. Identification procedures shall include systematic methods of utilizing referrals from teachers, parents, agencies, appropriate professional persons, and from other members of the public. Identification procedures shall be coordinated with school site procedures for referral of pupils that cannot be met with modification of the regular instructional program. (E.C. 56300)

Assessment

Before any action is taken with respect to the initial placement of an individual with exceptional needs in a special education program, an individualized assessment of the pupil's educational needs shall be conducted by a multidisciplinary team of educators and professionals.

Parent rights regarding assessment include:

- The proposed assessment plan will be provided in the primary language of the parent, when feasible.
- No assessment shall be conducted without the written consent of the parent (or the student, if he/she is 18 years of age).
- The original assessment of the student must be based on a multidisciplinary assessment. No single test can form the basis for identifying him/her as an individual with exceptional needs.
- School districts and county offices of education are not allowed to use intelligence tests in the assessment of black students who have been referred for a special education assessment. Alternate means of assessment shall be used.
- A copy of the "Notice of Parent Rights" shall be attached to the assessment plan.

Parents are invited to participate in the assessment process by sharing their concerns regarding their child, and by providing information regarding the child's educational performance and progress in school and overall development.

The results of the assessment are reviewed at an individualized education program (IEP) team meeting within 50 calendar days from the date of the receipt of the parent's written consent for assessment (not counting days between school sessions or terms), unless the parent agrees, in writing, to an extension of the time line.

The parent is an integral member of the IEP team. The team reviews the assessment information to determine whether the child meets the State of California eligibility requirements for placement in special education.

Individual with Exceptional Needs

A student qualifies for special education when an IEP team determines that he/she is an individual with exceptional needs. Section 56026 of the California Education Code defines an

individual with exceptional needs as:

1. Identified as a handicapped child per federal law
2. Having an impairment that requires instruction, services or both which cannot be provided with modification of the regular school program
3. Is between 0 and 21 years of age
4. Meets one of the following eligibility criteria

Hearing Impaired • A pupil has a hearing impairment, whether permanent or fluctuating, which impairs the processing of linguistic information through hearing, even with amplification, and which adversely affects educational performance. Processing linguistic information includes speech and language reception and speech and language discrimination. (Title 5, 3030 (a))

Deaf Blind • A pupil has concomitant hearing and visual impairments, the combination of which causes severe communication, developmental, and educational problems. [Title 5, 3030 (b)]

Language or Speech Disorder • A pupil has a language or speech disorder as defined in Section 56333 of the Education Code, and it is determined that the pupil's disorder meets one or more of the following criteria:

1. Articulation disorder.

   A. The pupil displays reduced intelligibility or an inability to use the speech mechanism which significantly interferes with communication and attracts adverse attention. Significant interference in communication occurs when the pupil's production of single or multiple speech sounds on a developmental scale of articulation competency is below that expected for his/her chronological age or developmental level, and which adversely affects educational performance.

   B. A pupil does not meet the criteria for an articulation disorder if the sole assessed disability is an abnormal swallowing pattern.

2. Abnormal Voice. A pupil has an abnormal voice which is characterized by persistent, defective voice quality, pitch or loudness.

3. Fluency Disorders. A pupil has a fluency disorder when the flow of verbal expression, including rate and rhythm, adversely affects communication between the pupil and listener.

4. Language Disorder. The pupil has an expressive or receptive language disorder when he/she meets one of the following criteria:

   A. The pupil scores at least 1.5 standard deviations below the mean, or below the 7th percentile, of his/her chronological age or developmental level on two or more standardized tests in one or more of the following areas of language development: morphology, syntax, semantics or pragmatics. When standardized tests are considered to be invalid for the specific pupil, the expected language performance level shall be determined by alternative means as specified on the assessment plan, or

   B. The pupil scores at least 1.5 standard deviations below the mean or below the 7th percentile for his/her chronological age or developmental level on one or more standardized tests in one of the areas listed in subsection (A) and displays inappropriate or inadequate usage of expressive or receptive language as measured by a representative spontaneous or elicited language sample of a minimum of fifty utterances. The language

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sample must be recorded or transcribed and analyzed, and the results included in the assessment report. If the pupil is unable to produce this sample, the language, speech, and hearing specialist shall document why a fifty utterance sample was not obtainable and the contexts in which attempts were made to elicit the sample. When standardized tests are considered to be invalid for the specific pupil, the expected language performance level shall be determined by alternative means as specified in the assessment plan. [Title 5, 3030 (c)] (E.C. Section 56333)

Visually Impaired • A student has a visual impairment which, even with correction, adversely affects the student's educational performance. [Title 5, 3030 (d)]

Orthopedically Impaired • A pupil has a severe orthopedic impairment which adversely affects the pupil's educational performance. Such orthopedic impairments include impairments caused by congenital anomaly, by disease, and from other causes. [Title 5, 3030 (e)]

Chronic or Acute Health Impairments • A pupil has limited strength, vitality or alertness, due to chronic or acute health problems, including but not limited to a heart condition, cancer, leukemia, rheumatic fever, chronic kidney disease, cystic fibrosis, severe asthma, epilepsy, lead poisoning, diabetes, tuberculosis and other communicable infectious diseases, and hematological disorders such as sickle cell anemia and hemophilia which adversely affects a pupil's educational performance. In accordance with Section 56026 (e) of the Education Code, such physical disabilities shall not be temporary in nature as defined by Title 5, 3001 (v). [Title 5, 3030 (f)]

Autistic • A pupil exhibits any combination of the following autistic-like behaviors that include but are not limited to:

1. An inability to use oral language for appropriate communication
2. A history of extreme withdrawal or relating to people inappropriately and continued impairment in social interaction from infancy through early childhood
3. An obsession to maintain sameness
4. Extreme preoccupation with objects, inappropriate use of objects, or both
5. Extreme resistance to controls
6. Displays peculiar motoric mannerisms and motility patterns
7. Self-stimulating, ritualistic behavior [Title 5, 3030 (g)]

The definition of autism, as a new category of disability that was added to the IDEA in 1990, is currently being developed. The proposed regulations define autism as a developmental disability that significantly affects verbal and nonverbal communication and social interaction, that is generally evident before age three (though children who manifest the symptoms after age three can be included), and that adversely affects educational performance. Autism is not to include children with characteristics of "serious emotional disturbance" as that category is defined in current regulations.

Mentally Retarded • A pupil has significantly below average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, all of which adversely affect a pupil's educational performance. [Title 5, 3030 (h)]

Seriously Emotionally Disturbed • Because of a serious emotional disturbance, a pupil exhibits one or more of the following characteristics over a long period of time and to a marked degree, which adversely affect educational performance:

1. An inability to learn which cannot be explained by intellectual, sensory or health factors
2. An inability to build or maintain satisfactory interpersonal relationships with peers and teachers
3. Inappropriate types of behavior or feelings under normal circumstances exhibited in several situations
4. A general pervasive mood of unhappiness or depression
5. A tendency to develop physical symptoms or fears associated with personal or school problems. [Title 5, 3030 (i)]

Specific Learning Disability • A pupil has a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, which may manifest itself in an impaired ability to listen, think, speak, read, write, spell, or do mathematical calculations, and has a severe discrepancy between intellectual ability and achievement in one or more of the academic areas specified in Section 56337 (a) of the Education Code. For the purposes of Title 5, Section 3030 (j):

1. Basic psychological processes include attention, visual processing, auditory processing, sensory-motor skills, cognitive abilities including association, conceptualization, and expression
2. Intellectual ability includes both acquired learning and learning potential and shall be determined by a systematic assessment of intellectual functioning
3. The level of achievement includes the pupil's level of competence in materials and subject matter explicitly taught in school and shall be measured by standardized achievement tests
4. The discrepancy shall not be primarily the result of limited school experience or poor school attendance. [Title 5, 3030 (j): (E.C. 56337 and 56338.)

Multihandicapped • Multihandicapped means concomitant impairments (such as mentally retarded-blind, mentally retarded-orthopedically impaired, blind-language handicapped, etc.) the combination of which causes such severe educational problems that they cannot be accommodated in special education programs solely for one of the impairments. (Code of Federal Regulations, 300.5)

Traumatic Brain Injury • The definition of traumatic brain injury, as a new category of disability that has been added to the IDEA in 1990, is being developed. The proposed definition includes children with brain injuries caused by external physical force or by an internal occurrence such as a stroke or aneurysm, with resulting impairments that adversely affect educational performance. The term includes children with open or closed head injuries but does not include children with brain injuries that are congenital, degenerative, or caused by birth trauma.

Additional Eligibility Criteria for Children with Disabilities, Ages Birth to Four Years and Nine Months • A child, age birth to four years and nine months, shall qualify as an individual with exceptional needs pursuant to Education Code Section 56026 (c) (1) and (2) if the IEP team determines that the child meets the following criteria:

1. Is identified as an individual with exceptional needs pursuant to Title 5, Section 3030 (See the eligibility criteria listed previously), and
2. Is identified as requiring intensive special education and services by meeting one of the following:

   A. The child is functioning at or below 50% of his/her chronological age level in any one of the following skill areas:

1) gross or fine motor development
2) receptive or expressive language development
3) social or emotional development
4) cognitive development
5) visual development

B. The child is functioning between 51% and 75% of his/her chronological age level in any two of the skill areas identified in Section 3031 (2)(A) (listed in "A." above).

C. The child has a disabling medical condition or congenital syndrome which the IEP team determines has a high predictability of requiring intensive special education services. (Title 5, Sections 3030 and 3031)

Additional Eligibility Criteria for Children Three to Five Years and Eleven Months • There are two options for preschool aged children, three through five years, inclusive, to be identified as an individual with exceptional needs. [E.C. 56026 (c) (2)] These two options are:

1. Meeting the requirements for intensive special education. (Title 5, Section 3031) These requirements are detailed in the previous section.
2. Meeting the requirements for nonintensive special education. (E.C. Section 56441.11)

Students not Eligible for Special Education Services

Not all students who experience difficulty in school meet the state eligibility requirements for special education. Students may not be eligible if:

1. The student's educational needs are due primarily to maturational, environmental, cultural, or economic factors.
2. Excessive absence from school or limited school experience is the main basis for the referral.
3. A temporary physical disability exists; that is, a disability incurred while a pupil was a regular education student and which, at the termination of the temporary physical disability, the student can, without special intervention, reasonably be expected to return to his or her regular education class.
4. The sole basis for referral and/or assessment is the student's limited or non-English language status.
5. Social maladjustment is the main basis for the referral. California law, in accordance with P.L. 101-476, specifically excludes for special education services those students who are "socially maladjusted" and who do not qualify under any other disabling condition.

Program Options

Both federal and state laws mandate the provision of:

"... a full continuum of program options to meet the educational and service needs of individuals with exceptional needs in the least restrictive environment."

(E.C. Part 30, Chap. 1, Art. 2, Section 56031)

Designated Instruction and Services (DIS)

Designated instruction and services are provided to a child when the IEP team considers them necessary in order for the student to benefit educationally from his/her special education program.

These services may include, but are not limited to:

- Language and speech development and remediation
- Audiological services
- Adapted physical education
- Orientation and mobility instruction
- Special instruction for students with visual impairments
- Home or hospital instruction
- Designated psychological services
- Physical and occupational therapy
- Counseling and guidance services
- Psychological services
- Health and nursing services
- Specially designed vocational education and career development
- Specialized driver training
- Specialized services for low incidence disabilities
- Parent counseling and education.

Students may receive DIS individually or in small groups in a specialized area of educational need. DIS is normally provided by specialists and is supervised by an appropriately credentialed person, though in some cases provided by the regular classroom teacher, resource specialist, special day class teacher, or an instructional aide. DIS is offered in any appropriate setting, including the regular classroom. Services may include assistance to individual students and their teacher or parent, as specified in the IEP.

When a child's IEP includes additional special education services (e.g., RSP), the DIS is sometimes referred to as "related services" or "support services."

Resource Specialist Program (RSP)

Students who receive RSP instruction and services are assigned to the regular classroom for the majority of the school day and receive resource specialist services as determined by the IEP team.

Services provided by the RSP teacher include, but are not limited to:

- Providing information and assistance to individuals with exceptional needs and their parents
- Coordinating special education services with the regular school program for each individual with exceptional needs enrolled in the RSP program
- Consulting with special and regular education teachers, administrators, and parents
- Disseminating resource information and materials (for parents and regular classroom teachers) regarding individuals with exceptional needs
- Monitoring pupil progress on a regular basis

Participating in the review and revision of IEPs, as appropriate, and referring pupils who do not demonstrate appropriate progress to the IEP team.

Special Classes

Special classes, sometimes referred to as special day classes (SDC), serve students with similar intensive needs when the IEP team determines that the nature or severity of the student's disability precludes participation in a regular school program for the majority of the school day. The IEP team must determine that for these children, education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Special classes allow, to the maximum extent appropriate, participation with nondisabled pupils in nonacademic and extracurricular activities, including meals and recess periods. Each special class is maintained in connection with regular education programs as much as possible.

Nonpublic, Nonsectarian School and Agency Services

A "nonpublic school" is any private, nonsectarian school that enrolls individuals with exceptional needs, employs at least one full-time teacher with an appropriate special education credential, and is certified by the California Department of Education. Nonpublic, nonsectarian school services are available to individuals with exceptional needs only when the IEP team determines that an appropriate educational program is not available through the public school systems in the child's district of residence or adjacent district within the special education local plan area or in adjacent areas.

A "nonpublic agency" is a private, nonsectarian establishment or individual providing related services necessary for an individual with exceptional needs to benefit from an educational program.

"Nonsectarian" status means a nonpublic school or agency that is not owned, operated, controlled by, or formally affiliated, with a religious group or sect.

State Special Schools

The state operates two types of programs for students referred by their local educational agency.

1. Three state schools (the California School for the Blind and two California Schools for the Deaf) provide day and residential programs for visually handicapped, deaf-blind, and deaf individuals.

2. Six diagnostic and assessment centers provide assessment and educational planning services upon request of local districts. Services are provided after a local program has exhausted its own resources for assessment and diagnostic questions still remain. While assessment for all handicapping conditions is available, three of the centers specialize in low incidence handicapping conditions.

Early Education Program

The early education program provides services specially designed to meet the unique needs of children from birth to age 3 who are identified as requiring intensive special education and services and their families. These programs are often referred to as "Early Intervention" or "Infant Programs."

The primary purpose of the early intervention program is to enhance the development of the infant/toddler. The program focuses on the infant/toddler and his/her family, and it may include home visits, center-based group services, and family involvement activities.

Early intervention services for the infant/toddler are specified in the child's IEP and may include, as appropriate:

- Counseling, home visits, and special instruction
- Speech pathology and audiology, occupational therapy
- Physical therapy, psychological services
- Case management services
- Medical services (for diagnostic or evaluation purposes only)
- Early identification, screening, and assessment services
- Health services to enable the infant or toddler to benefit from early intervention services
- Social work services.

Preschool Program

The preschool program provides educational services for children between the ages of 3 to 5 years who require intensive special education services (RIS), as well as those preschool-age children who require less intensive special education services (NRIS), in conformance with current state law. (See Additional Eligibility Criteria for Children Three to Five Years 11 Months page 11.)

The focus of the preschool program is on the young child and his/her family, and it includes both individual and small group services. Services are available in a variety of typical age-appropriate environments for children and include opportunities for active parent involvement.

Least Restrictive Environment

Each student is assured of the right to be educated in the least restrictive environment which promotes maximum interaction with the general school population. A pupil shall be referred for special educational instruction and services only after the resources of the regular education program have been considered and, where appropriate, utilized. (E.C. Part 30, Chap. 4, Art. 1, Sec. 56303)

Policies for implementing these rights statewide are based on the principle that individuals with exceptional needs should receive their education in chronological age appropriate environments with nonhandicapped peers. This principle maintains that both nonhandicapped and handicapped children are most successfully educated in a shared environment where qualities of understanding, cooperation, and mutual respect are nurtured.

It is also the intent of federal and state statutes and regulations that individuals with exceptional needs attend the same public school as nonhandicapped students in their neighborhood unless it is determined by the individualized education program (IEP) team to be inappropriate to their educational and social needs.

Therefore, placement in an educational environment other than a regular class should be considered only when the IEP team determines that the regular environment, services, and/or curriculum cannot be modified effectively to meet the needs of the students as specified in his/her IEP.

Assignment to special classes, special schooling, or other removal of the student from the general education environment shall occur only when the nature and severity of the student's disability is such that education in general classes, with the use of supplementary aides and/or services, cannot be achieved satisfactorily, and such information is documented in the child's IEP.

To ensure that a full continuum of program options are available, all local education agencies should review their current delivery systems to determine that:

1. Program options in regular education environments are available at local neighborhood schools.
2. Special education programs, to the maximum extent appropriate to student needs, are housed on regular school campuses and dispersed throughout the district.
3. The physical location of the program facilitates enhances social interaction with nonhandicapped students.
4. Individuals with exceptional needs have equal access to all regular education activities, programs, and facilities on the regular school site and participate in those activities as appropriate to their needs.
5. Administrative policies and procedures encourage the close cooperation of all school personnel to facilitate opportunities for social interaction between individuals with exceptional needs and nonhandicapped individuals.
6. Administrative policies and procedures allow individuals with exceptional needs maximum access to appropriate general education academic programs and school personnel are given necessary support to ensure the student's success.
7. Long-range plans and commitments for physical housing on regular school campuses are made in order to avoid frequent and disruptive program relocations.
8. Through long-range commitments for physical housing on regular school campuses, individuals with exceptional needs are afforded opportunities to develop and maintain continuing relationships with nonhandicapped peers.

Consistent with the determination of an IEP team, students may be placed in residential schools or nonpublic schools and may be provided educational services in medical facilities. Administrators of those facilities and programs are encouraged to provide opportunities for participation with nonhandicapped students in both educational and social activities.

In all instances, the IEP team determines the extent to which an individual with exceptional needs participates in regular education with nonhandicapped students. The determination of appropriate program placement, related services needed, and curriculum options to be offered is made by the IEP team based upon the unique needs of the student rather than the label describing the handicapping condition or the availability of programs.

The Individualized Education Program

The Individualized Education Program Meeting

A child's program will be developed at the individualized education program (IEP) team meeting. Both federal and state laws require that an IEP be written for each student who is eligible for, and placed in, a special education setting. The IEP is a written statement about the special education and related services that will be provided for each child. The IEP is written by a team including, but not limited to (E.C. 56341):

- an administrator or designee
- the parent(s) or surrogate parent

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- the student's teacher
- a person who has conducted or is knowledgeable about and qualified to interpret the assessment results
- when appropriate, other personnel such as a representative of other public or nonpublic agencies. [34CFR 300.3.344,.345,.347,.348,.514,.540; E.C. 56050, 56506 (d), 56341 (c); Govt. Code 7570; CCR Title 5 3030 (c)]

The following usually occurs at an IEP meeting:

1. All assessment results and relevant information regarding the student are reviewed.
2. A decision is made as to whether the child is eligible for special education and whether special education services are needed.
3. If the IEP team agrees that the child needs special education services, an IEP is written.
4. The team determines the kind of special education program and types of services that will meet the needs of the child. A decision is made as to how frequently these services are needed and how long they are to be provided.
5. The team determines what proportion of time the child will spend in special education and in general education.

If the parent agrees with the decisions made at the IEP team meeting, the IEP is signed, which indicates approval of the child's placement in special education. If the parent does not agree, they may choose not to sign the IEP. They may request an additional meeting to discuss further the child's needs or program. If the parent(s) and the district disagree as to the content of the IEP, either the parent(s) or the district may file for a due process hearing. (See Due Process Procedural Safeguards page 22.)

The IEP Document

The written IEP contains the following required components:

- Statement of present levels of performance
- Annual goals and short-term objectives
- Specific instruction and related services
- Extent of participation in the regular program
- Date of initiation and duration of service
- Objective criteria, evaluation procedures, and a schedule for determining at least annually whether objectives are achieved
- Type of physical education
- Parental consent to all or part of the IEP
- Transition services for students aged 16 years or over.

[20 USC 1401(a)(20); 34 CFR 300.306, .307, .346, .348, .553; E.C. 56341 (c); 56346, 56460]

When appropriate the IEP contains the following items:

- Prevocational career education for K-grade 6
- Vocational education for grades 7-12
- Differential proficiency standards for graduation

- Extended school-year services if students are eligible and services are needed
- Provisions for transition to regular class, including the nature and time spent on the activity
- Linguistically appropriate goals, objectives, programs, and services
- Specialized services, materials, and equipment for students with low-incidence disabilities consistent with state guidelines
- Transition services beginning at age 14 or younger

[20 USC 1401(a)(20); 34 CFR 300.13, .307, .552(a)(2); E.C. 56345, 56363, 56460, et seq.; CCR Title 5 3001(i),3040(c), 3043,3051-3051-18,3053]

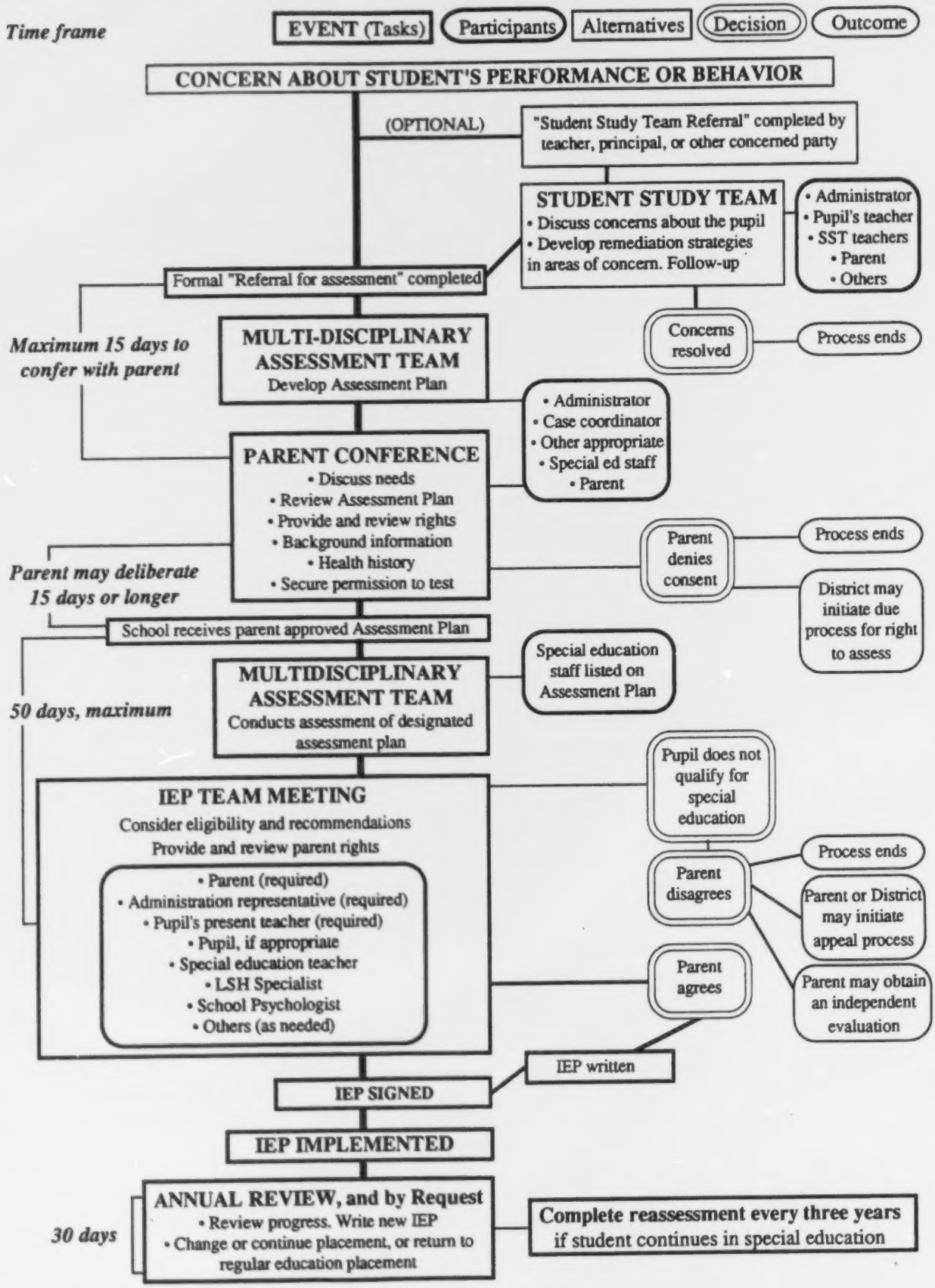
The parent(s), must provide written consent to the IEP before special education and related services can begin. Such consent may be revoked at any time. In addition, the parent(s) must provide written consent before a change in the child's program occurs.

Student progress towards the IEP goals and objectives is reviewed by the IEP team at least one time each year, or sooner upon parent or teacher request. A new IEP is written at the annual IEP review meeting.

At least every three years, the student who remains in special education is reassessed by a multidisciplinary team.

The student's program is a cooperative effort among the school, the home, the student, and, at times, other agencies. Communication between home, school, and agencies should be continued even after the formal conferences and meetings take place. Parents may request informal conferences with the student's teacher, to visit the class or program, or communicate through notes or phone calls to learn about their child's program and performance.

SPECIAL EDUCATION PLACEMENT PROCESS CHART


Time frame
EVENT (Tasks)
Participants
Alternatives
Decision
Outcome
CONCERN ABOUT STUDENT'S PERFORMANCE OR BEHAVIOR
(OPTIONAL)
"Student Study Team Referral" completed by teacher, principal, or other concerned party
STUDENT STUDY TEAM
• Discuss concerns about the pupil
• Develop remediation strategies in areas of concern. Follow-up
• Administrator
• Pupil's teacher
• SST teachers
• Parent
• Others
Concerns resolved
Process ends
Formal "Referral for assessment" completed
Maximum 15 days to confer with parent
MULTI-DISCIPLINARY ASSESSMENT TEAM
Develop Assessment Plan
• Administrator
• Case coordinator
• Other appropriate
• Special ed staff
• Parent
PARENT CONFERENCE
• Discuss needs
• Review Assessment Plan
• Provide and review rights
• Background information
• Health history
• Secure permission to test
Parent may deliberate 15 days or longer
Parent denies consent
Process ends
District may initiate due process for right to assess
School receives parent approved Assessment Plan
50 days, maximum
MULTIDISCIPLINARY ASSESSMENT TEAM
Conducts assessment of designated assessment plan
Special education staff listed on Assessment Plan
IEP TEAM MEETING
Consider eligibility and recommendations
Provide and review parent rights
• Parent (required)
• Administration representative (required)
• Pupil's present teacher (required)
• Pupil, if appropriate
• Special education teacher
• LSH Specialist
• School Psychologist
• Others (as needed)
Pupil does not qualify for special education
Parent disagrees
Process ends
Parent or District may initiate appeal process
Parent agrees
Parent may obtain an independent evaluation
IEP written
IEP SIGNED
IEP IMPLEMENTED
30 days
ANNUAL REVIEW, and by Request
• Review progress. Write new IEP
• Change or continue placement, or return to regular education placement
Complete reassessment every three years if student continues in special education

PARENT AND STUDENT RIGHTS

The law requires that local education agencies establish procedures to protect the rights of individuals with exceptional needs and their parents or guardians. These procedures are called procedural safeguards.

General Rights

Written notice is provided to the parent of his or her rights in language easily understood by the general public and in the primary language or other mode of communication used by the parent, unless to do so is clearly not feasible. [E.C. 56506 (a), 56341]

Each individual with exceptional needs is assured an appropriate education in publicly supported programs through completion of his/her prescribed course of study or until he/she has met proficiency standards for graduation from high school. [E.C. 56001 (a), 51215-51216]

Individuals with exceptional needs are offered special assistance programs that promote maximum interaction with the general school population in a manner that is appropriate to the needs of both general and special education pupils. [E.C. 56001 (g)]

Student Records

Parents have the right of privacy and confidentiality of all educational records, including the right to see (within five days of request), review, and, if necessary, challenge the records in accordance with the Family Education Rights and Privacy Act of 1974. [CFR 121 (a). 129, E.C. 56347]

Parents also have the right to request a copy of the educational records prior to a meeting or at any other time. (A reasonable charge for copies may be assessed if the fee does not effectively prevent the parents from obtaining copies of those records.) [CFR 121 (a). 562]

The parent(s), or guardian(s), or student (if age 18 years) may examine the student's records. To examine the records, a written request must be submitted to the local administrator of special education and a time will be arranged to examine the records. Parent(s) or guardian(s) may also arrange a time for a conference in order to have any tests or other information regarding their child explained by a qualified representative of the school. A parent may request a list of the type of information collected about their child and where it is located.

If, after reviewing the pupil's records, the parent feels the information about their child is misleading, or inaccurate, or that the conclusions are not based upon personal observation of the writer, or are outside the area of competence of the writer, the parent may file a written request with the school district to have challenged information removed from the records.

Records will be sent to other agencies or persons outside of the district or county office of education (with the only exception being other school districts/COEs) only upon written request, with permission of the parent(s) or guardian(s), as otherwise authorized by law, or by court order. Students of legal age may request their own records. A small fee, not to exceed the cost of reproducing records, may be charged.

All students' records are confidential. Only school district and COE employees who have a

legitimate educational interest in the information regarding the student may review the records. This review is to help school staff to better understand and plan for the student.

A list of persons who have access to and who review the confidential (special education) records must be maintained by the district. School districts maintain a student's confidential file for no longer than three years after the student leaves the program or until age 22, whichever comes first. A reasonable effort shall be made to notify parent(s) or guardian(s) that they have a right to be given a copy of the confidential records before destruction. Mandatory permanent records will be kept in perpetuity for every pupil ever enrolled in a district.

The Individualized Education Program

Parents have specific rights related to their child's IEP. The following are some of those rights. An IEP required as the result of an assessment of a student is developed within a total time not exceeding 50 days (not counting days between school sessions or terms) from the receipt of the parent's written consent for assessment, unless the parent agrees, in writing, to an extension. An IEP is developed within 30 days after the beginning of the subsequent regular school year for each student who was referred 20 days or less prior to the end of the school year. (E.C. 56344)

Parents are to be notified of the date, time, and place of their child's IEP meeting and informed as to who will be in attendance at the meeting.

Parents have the right to participate in the development of the IEP and to be informed of the availability under state and federal law of free appropriate public education and of all available alternative programs, both public and nonpublic. [E.C. 56506 (d)]

In addition, rights specifically related to the IEP meeting include the parent's right to:

1. Request an interpreter in the parent's primary language or mode of communication
2. Present information, including independent assessments, either in person or in writing
3. Appoint a representative or child advocate to speak for the parent or to attend the IEP meeting with, or for, the parent
4. A pupil's IEP shall include the determination of the IEP team as to whether differential proficiency standards for graduation shall be developed for the pupil. If differential proficiency standards are to be developed, the IEP shall include these standards [E.C. 56345 (d), 51215]
5. Be informed of the IEP team's recommendations
6. Written parental consent shall be obtained before the pupil is placed in a special education program. [E.C. 56595 (f), 56321] The parent may consent to any or all parts of their child's IEP. Such consent shall also be obtained prior to changing any part of the student's IEP
7. Receive a copy of their child's IEP upon request
8. To have the student participate in the IEP meeting, when appropriate [E.C. 56341 (c) (1)]
9. To request an IEP review meeting and have the meeting held within 30 days, not counting the days in July and August, from the date of the receipt of the parent's written request. (E.C. 56343.5)

In addition, parents have the right to participate in, on at least an annual basis, a review of their child's IEP [E.C. 56380 (a) (b)]. They are guaranteed the right to have a reassessment of their child at least every three years, or more frequently if conditions warrant, or if the parent or teacher requests a new assessment and a new IEP to be developed (E.C. 56381). The parent may withdraw consent to implement all or any part of the IEP, including placement, at any time after consultation with a member of the IEP team and after he/she has submitted written notification to an administrator. (E.C. 56346)

Due Process Procedural Safeguards

A major component in all special education legislation is parent involvement and the assurance of pupil rights. The expression ***due process*** means parents have a right to certain protections and to expect that certain procedures will be followed. Due process ensures that each child is treated in a manner that guarantees that no child is denied his or her right to equal educational opportunities. In addition, due process ensures that there are specific procedures and time lines that must be followed when and if significant changes or accommodations are made (or even proposed) in a child's educational program. Due process is guaranteed by the Constitution of the United States and federal and state laws and regulations. It is there as a safeguard so that every individual has the means of protecting and asserting his or her own rights.

The following due process rights extend to the pupil with exceptional needs and to his/her parent.

The pupil, parent, and public education agency involved with a child may initiate the due process hearing procedures under any of the following circumstances: [E.C. 56501 (a), California Code of Regulations (CCR) Title 5-3082 (a)]

1. There is a proposal to initiate or change the identification, assessment, or educational placement of the child or the provision of a free appropriate education to the child
2. There is a refusal to initiate or change the identification, assessment, or educational placement of the child or of provision of a free appropriate public education to the child
3. The parent refuses to consent to an assessment of the child

Due process hearing rights include, but are not limited to: [E.C. 56501 (b)]

1. The right to a mediation conference (E.C. 56502 and 56503)
2. The right to examine pupil records (E.C. 56504)
3. The right to a fair and impartial administrative hearing at the state level, before a person knowledgeable in the laws governing special education and administrative hearings, under contract with the department (E.C. 56505)

In addition, the parent has the following rights: [E.C. 56501 (c)]

1. The right to have the student who is the subject of the hearing present at the hearing
2. The right to open the hearing to the public

The Due Process Hearing

A due process hearing is a formal attempt to settle a disagreement between parents and the school district/COE or involved agency out of court. If the parents and the district/COE or agency cannot reach an agreement, either may request a due process hearing (sometimes referred to as a "Fair Hearing"). Once a due process hearing is requested, an impartial hearing officer must

review all the information about the child and reach a decision that is binding upon both parties. All requests for a due process hearing must be filed in writing. The party that initiates a due process hearing should provide the other party to the hearing with a copy of the request at the same time as the request is filed. Within three days following receipt by the local education agency of a copy of a request for a hearing, the local education agency must advise the parent of free or low-cost legal services and other relevant services available within the geographical area. The state superintendent shall take steps to ensure that within 45 days after receipt of the written hearing request the hearing is commenced and completed, including any mediation, and a final administrative decision is rendered, unless a continuance has been granted. [E.C. 56502 (a), 56503]

Once the hearing process has started, the pupil remains in his/her present placement unless the local education agency and the parent agree otherwise. [E.C. 56505 (d)]

Use of an Attorney

The local education agency may initiate the use of the services of an attorney for actual presentation of written argument, oral argument, evidence, or any combination thereof, during a mediation conference, individualized education program, or due process hearing, provided that all the following requirements are satisfied:

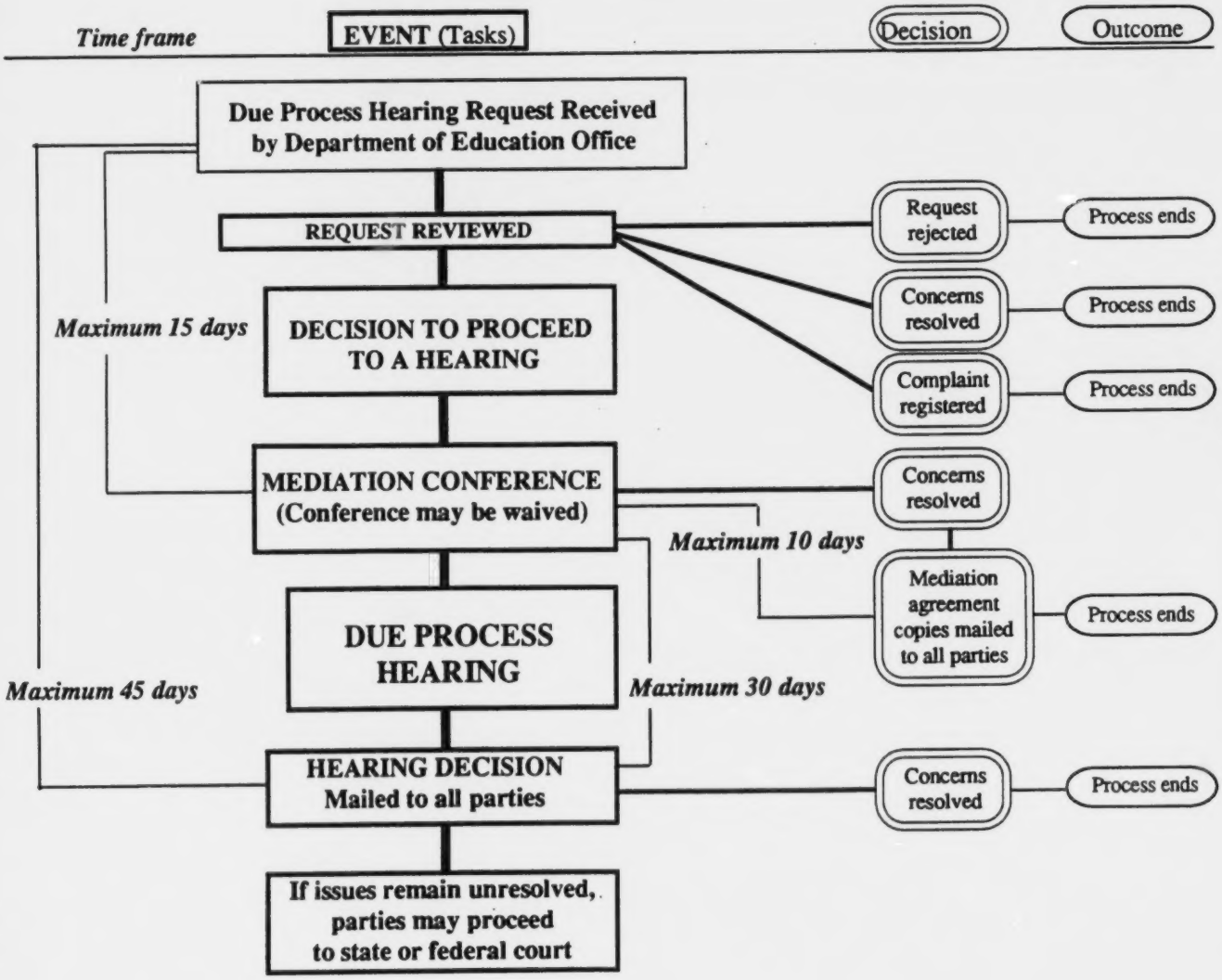
1. The local education agency notifies the parent, in writing, of the use of such services at least three days prior to the mediation conference or IEP meeting, or at least 10 days prior to the state hearing, as appropriate.
2. The local education agency provides, to the parent, a listing of attorneys knowledgeable in mediation conferences, IEP meetings, and state hearings.
3. The local education agency bears only those costs of the services of any attorney provided to the parent for which the parent is required to pay. However, in no case shall such costs to the agency be greater than the cost to the agency for its own attorney services, including the cost of preparation and advice.

The local education agency may use the services of an attorney for actual presentation of written argument, oral argument, evidence, or any combination thereof, during a mediation conference, IEP meeting, or state hearing, if the parent initiates the use of the services of an attorney. The parent shall notify the local education agency, in writing, of the use of such services at least three days prior to the mediation conference or IEP meeting or at least 10 days prior to the due process hearing, as appropriate. If the parent initiates the use of services of an attorney, as described in this paragraph, the parent shall bear his or her costs. If the local education agency uses an attorney as described in this paragraph, it shall bear its costs. [E.C. 56507 (b) (c)]

Attorneys' Fees

P.L. 99-372, the Handicapped Children's Protection Act of 1986, amended P.L. 94-142 to authorize the award of attorneys' fees. In any action or proceeding brought under the Procedural Safeguards Section (1415) of P.L. 94-142, the court, at its discretion, may award reasonable attorneys' fees as part of the costs to the parents or guardian of a child or youth with a disability who is the prevailing party. Fees shall be based upon rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. [IDEA, Section 1415 (e)(4) and (b)(c)].

Due Process Hearing Procedures and Time Lines



Days are calendar days

35

Complaint Procedures

Any individual, public agency, or organization may file a complaint if they feel that the public schools have violated federal or state laws regarding special education.

Complaints are filed when there is an alleged violation of federal or state law(s) or regulation(s) relating to a free appropriate public education by a public education agency. Any individual, public agency, or organization may file a written complaint with the local education agency alleging a matter which, if true, would constitute a violation by that public education agency of federal or state law(s) or regulations governing special education and related services.

Due process and complaint procedures are to be differentiated. Due issues involve differences of opinion between a parent(s) or guardian(s) and the public educational agency on what is educationally appropriate for a particular child and included in the IEP. Examples of issues are appropriate special education services, appropriateness of assessment, interpretation of assessment results, and placement of the child. On the other hand, complaint procedures are used in situations which involve alleged violation by the public educational agency of any federal or state law or regulation governing special education.

Special Education Advocates

The parent(s) may want additional support in their role as a partner in planning for their child's education, or they may wish to obtain the assistance of someone to aid in program planning, or to represent, or act in their behalf at placement meetings or conferences. One source of support is a parent advocate. A parent advocate may be another parent, a teacher, and/or other professionals trained to provide practical information and support to parents whose children are participating in special education programs.

Advocates can increase parents' level of awareness of special education programs and services for students.

PARENT INVOLVEMENT

The Community Advisory Committee (CAC)

Parents comprise a majority of the membership of the local school district community advisory committee (CAC) and of these members, the majority must be parents of special education children. Members of local PTAs, home and school clubs, special education teachers, regular classroom teachers and other school personnel, disabled students, representatives of related public and private agencies, and other persons concerned with the needs of individuals with exceptional needs may also be represented on the community advisory committee. CAC members are appointed by school district and COE boards of trustees to serve a two year term.

The CAC is an advisory group that provides input to the SELPA local governing boards and local education agency. The primary responsibilities and activities of the CAC include, but need not be limited to: (E.C. 56194)

1. Advising the administration of the SELPA regarding the development, amendment, and review of the local plan
2. Making recommendations and suggestions for annual priorities to be addressed by the local plan
3. Assisting in parent education and in recruiting parents and other volunteers who may contribute to the implementation of the local plan
4. Encouraging community involvement in the development and review of the local plan
5. Supporting activities on behalf of individuals with exceptional needs
6. Assisting in parent awareness of the importance of regular school attendance

Participation in regular monthly meetings helps to keep members well informed about current programs and legislation, and facilitates closer communication and a better understanding of the mutual goals of school administrators, faculty, parents and the community.

The local school district/COE administrator of special education or the SELPA office will be able to provide information on community advisory committee meetings. All meetings are open to anyone interested, and parents are encouraged to participate.

QUESTIONS PARENTS ASK ABOUT SPECIAL EDUCATION

WHAT IS SPECIAL EDUCATION?

The California Education Code describes Special Education as:

Specially designed instruction, at no cost to the parent, to meet the unique needs of individuals with exceptional needs, whose educational needs cannot be met with modification of the regular instructional program, and related services, at no cost to the parent, which may be needed to assist such individuals to benefit from specially designed instruction.

Special education is an integral part of the total public education system and provides education that promotes maximum interaction between handicapped and nonhandicapped pupils which is appropriate to the needs of both. (E.C. 56031)

WHAT IS THE SPECIAL EDUCATION LOCAL PLAN AREA (SELPA)?

In addition to school districts and county offices of education (sometimes referred to as local education agencies or LEAs), California has special education local plan areas. A special education local plan area may consist of a single school district, a group of districts or a group of districts and a county office of education. The purpose of a special education local plan area, or SELPA is to ensure the provision of a free and appropriate public education to all individuals with exceptional needs within the area by coordinating and sharing resources, services and programs across the local educational agencies within the designated area. Every three years, the local educational agencies within the area must submit to the Superintendent of Public Instruction a local plan for the education of all individuals with exceptional needs within the area. For more information on the local plan and SELPAs, see the California Education Code sections 56170-56172.

IF I AM NOT HAPPY WITH MY CHILD'S PRESENT PROGRESS IN SCHOOL, WHOM DO I CONTACT FIRST?

First, contact your child's teacher.

IF I STILL DO NOT GET THE SITUATION SATISFACTORILY RESOLVED, TO WHOM CAN I SPEAK?

If you are not able to resolve the problem, then speak to the principal. You may request that the Student Study Team (if one exists at your child's school) meet to discuss your concerns. You may request an assessment for special education (Ask your principal for the appropriate form.) or call for a new IEP meeting.

HOW DO I KNOW IF MY CHILD MAY NEED SPECIAL EDUCATION SERVICES?

If your child has a demonstrated problem which prevents him or her from functioning effectively in a regular school program, then your child may be eligible for a special education program. Such a program may include specialized help in the regular classroom or in a separate classroom.

IF I FEEL MY CHILD HAS EXCEPTIONAL NEEDS, AT WHAT AGE DO I NOTIFY THE DISTRICT THAT MY CHILD WILL NEED SPECIAL SERVICES?

Notify your local school principal, or special education office in your school district as soon as you suspect there may be a problem, at the earliest age possible.

IF I WANT MY CHILD ASSESSED FOR SPECIAL PROBLEMS THAT I AM CONCERNED ABOUT, WHERE DO I SEEK HELP FIRST?

Contact your local school district. If your child is in a public school program contact the main teacher or school principal. If your child is not as yet attending school, call the district administrator of special education in your district.

HOW DO I KNOW IF MY CHILD IS ELIGIBLE FOR SPECIAL SERVICES?

A child's eligibility is determined by the IEP team of which you are a valuable member.

WHAT IS AN IEP?

An IEP is an individualized education program specially designed to meet your child's special education needs. It includes present levels of educational performance, annual goals and objectives, and indicates the services and/or special programs that are needed to achieve these goals. You are encouraged to participate fully in the planning of your child's program.

WHO DETERMINES MY CHILD'S SPECIAL EDUCATION NEEDS?

The IEP team determines your child's special education needs. You are an important part of the team. If you disagree with the team you can sign the IEP sections that you agree with and pursue the areas in dispute through the due process procedure.

UNDER WHAT CIRCUMSTANCES WILL MY CHILD RECEIVE SPECIAL TRANSPORTATION?

If the IEP team determines that age, handicapping condition, or distance prevents your child from either walking to school or riding the regular school bus, your child will receive special transportation. Special services including transportation are provided, as necessary, with no cost to the parents.

WILL MY CHILD PARTICIPATE IN REGULAR SCHOOL PROGRAMS?

One objective of special education is to include the child with exceptional needs in the regular program to the extent that he/she can be successful. You can be very helpful by working with the IEP team and your child's teacher(s) in determining how much contact with nondisabled students is appropriate for your child.

CAN MY CHILD BE PLACED IN SPECIAL EDUCATION WITHOUT MY PERMISSION?

No. Written parental consent is required prior to special education placement.

HOW LONG WILL MY CHILD RECEIVE SPECIAL EDUCATION?

As long as the IEP team (including parents) agrees that special education is needed. This decision is based on the ongoing assessment of your child's needs.

IF I AM NOT HAPPY WITH MY CHILD'S SPECIAL EDUCATION PLACEMENT, WHAT CAN I DO?

If at any time you are not happy with your child's program, call your school principal, teacher/specialist or special education office to request an IEP meeting to consider other alternatives.

IS THERE A PRESCHOOL PROGRAM AVAILABLE?

Yes. Statewide preschool programs (ages three to five) are available. Early education programs for infants and toddlers (birth to three) are available in many counties.

WILL MY CHILD RECEIVE A REPORT CARD?

Practices related to report cards may vary from district to district, and by age and grade level within districts. However, in any case, your child's progress will be discussed with you at least yearly, at the annual review IEP meeting, or more often, at the request of you or your child's teacher.

WILL MY CHILD NEED TO MEET REGULAR HIGH SCHOOL GRADUATION STANDARDS?

Students with exceptional needs are entitled to differential standards for graduation if the IEP team determines that it is appropriate to develop them.

WHOM DO I CONTACT IF I WANT TO DO VOLUNTEER WORK FOR THE SPECIAL EDUCATION CLASSES?

Call your child's teacher, the principal where your child attends or the school district's administrator of special education.

CAN A STUDENT WITH EXCEPTIONAL NEEDS BE SUSPENDED/EXPELLED?

A local education agency may suspend and/or expel a student with exceptional needs.

Suspension shall be imposed only when other means of correction fail to bring about proper conduct. However, a pupil, including an individual with exceptional needs may be suspended for any of the reasons enumerated in E.C. 48900 upon a first offense, if the principal or superintendent of schools determines that the pupil violated subdivision (a), (b), (c), (d), or (e) of E.C. 48900 or that the pupil's presence causes a danger to persons or property or threatens to disrupt the instructional process. An individual with exceptional needs may not be suspended for more than 10 days without the agreement of the parent or a court order.

An individual with exceptional needs may be suspended for up to, but not more than, 10 days if he or she poses an immediate threat to the safety of others. In the case of a truly dangerous child, a suspension may exceed 10 days, or the pupil's placement may be changed or both, if either of the following occurs:

1. The pupil's parent or guardian agrees
2. A court order so provides.

The principal or the superintendent of schools may recommend a pupil's expulsion for any of the acts listed in E.C. 48915, unless the principal or the superintendent finds, and so reports in writing to the governing board, that expulsion is inappropriate, due to the particular circumstance, which shall be set out in the report of the incident.

In a matter involving a pupil with previously identified exceptional needs who is currently enrolled in a special education program, the governing board may order the pupil expelled pursuant to subdivisions (b) and (c) of Section 48915 only if all of the following conditions are met (E.C. 48915.5):

1. An IEP team meeting is held;

2. The team determines that the misconduct was not caused by, or was not a direct manifestation of, the pupil's identified disability;

3. The team determines that the pupil had been appropriately placed at the time the misconduct occurred. All applicable procedural safeguards prescribed by federal and state law and regulations apply to proceedings to expel pupils with previously identified exceptional needs, except that, notwithstanding Section 56321, subdivision (e) of Section 56506, or any other provision of law, parental consent is not required prior to conducting a preexpulsion educational assessment pursuant to subdivision (e), or as a condition of the final decision of the local board to expel.

The parent of each pupil with previously identified exceptional needs has the right to participate in the IEP team meeting conducted preceding the commencement of expulsion proceedings, following the completion of a preexpulsion assessment, through actual participation, representation, or a conference call. Each parent shall be notified at least 48 hours prior to the meeting. Unless a parent has requested a postponement, the meeting may be conducted without the parent's participation, if appropriate notice has been provided. Each parent may request that the meeting be postponed for up to three additional school days. In the event that a postponement has been granted, the local educational agency may extend any suspension of a pupil for the period of postponement. However, the suspension shall not be extended beyond 10 days unless agreed to by the parent.

In determining whether a pupil should be expelled, the IEP team shall base its decision on the results of a preexpulsion educational assessment, which shall include a review of the appropriateness of the pupil's placement at the time of the alleged misconduct, and a determination of the relationship, if any, between the pupil's behavior and his or her disability. In addition to the preexpulsion educational assessment results, the IEP team shall also review and consider the pupil's health records and school discipline records.

If the IEP team determines that the alleged misconduct was not caused by, or a direct manifestation of, the pupil's disabling condition, and if it is determined that the pupil was appropriately placed, the pupil shall be subject to the applicable disciplinary actions and procedures prescribed under Section 48915 of the Education Code.

The parent of each pupil with previously identified exceptional needs has the right to a due process hearing if the parent disagrees with the assessment or the decision of the IEP team.

No individual with exceptional needs shall be referred or recommended for expulsion and no governing board shall conduct expulsion proceedings for an individual with exceptional needs until all of the following have occurred:

1. A preexpulsion assessment is conducted.
2. The IEP team meets.
3. Due process hearings and appeals, if initiated, are completed.

Responsibilities and rights of surrogate parents, the appointment process, and tips for effective involvement in their assigned student's assessment and IEP

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Part 2: Surrogate Parents in California Special Education

Overview of Surrogate Parent Appointment

What is a Surrogate Parent?

A "surrogate parent" is a person appointed by a local education agency (LEA) or special education local plan area (SELPA) to represent a pupil for the purpose of their individual education program (aged 0-21) to ensure that the rights of the pupil to a free appropriate public education are protected.

Who Needs a Surrogate Parent?

A student needs a surrogate parent if:

1. The student does not have a parent, guardian or conservator or the student's parent, guardian or conservator cannot be located.

2. The student is a ward or dependent of the court under the laws of the State and the court has removed the parent's rights to make educational decisions for the individual. The authority of the court to remove the parent's rights is included in A.B. 1528 (Sections 6,7). Wards or dependents of the court must continue to be represented by their parent unless the court has specifically removed parental rights to represent the child for educational purposes.

3. A student may need an interim surrogate parent when he/she is initially placed in a SELPA, in order to meet the requirements for an immediate educational placement, while the status or location of the student's parent is researched.

These children may be living in:

- foster homes
- private group homes
- state hospitals and other health facilities
- correctional facilities
- residential treatment centers
- with other family members (such as grandparents)

If a child has a legal guardian acting on his or her behalf, then a surrogate parent is not needed. Also, if someone — such as a grandparent — is "acting" as the child's parent at the request of the natural parent, this child does not need a surrogate parent.

A student does not need a surrogate parent if:

1. The parent's educational rights pertaining to the student have not been removed by a court.
2. The parent maintains educational rights and has appointed their own educational representative for their child.
3. A court has appointed a guardian for the student.
4. The student was voluntarily placed in a residential facility (this includes Chapter 26.5 Government Code residential placements).
5. The student is 18 years of age, or older, and he/she does not have a conservator or guardian, regardless of the individual's functioning levels.

6. The student is an emancipated minor.
7. The student is married.

It is important to note that there may be occasions when a parent with exceptional needs may be able to provide educational consent for their child with exceptional needs, but not be able to give consent *for their own* educational program.

Who Appoints Surrogate Parents?

The SELPA local plan for the region in which the child resides decides the process used for appointing and monitoring surrogate parents.

Who Monitors Surrogate Parents?

The SELPA or LEA monitors surrogate parents.

SURROGATE PARENT REQUIREMENTS

1. A surrogate parent must possess the knowledge and skills that ensure that he/she can adequately represent the student.
2. A surrogate parent should be culturally sensitive to the student he/she is assigned to represent.
3. A surrogate parent ***cannot*** be an employee of a public agency involved in the education or care of the student.
   - This includes, but is not limited to, school employees, social workers, probation officers, regional center workers, conservators who are employees of public agencies, etc. The person must not be in a position to have his/her representation of the student affected by his/her employment.
   - A surrogate parent is not considered an employee of the local education agency if he/she is paid only to serve as a surrogate parent.
4. California law states that retired teachers, social workers, and probation officers who are ***not*** current employees of a public agency involved in the education or care of the student may serve as surrogate parents unless they have a conflict of interest.
5. A surrogate parent ***cannot*** be an employee of a private agency involved in the education or care of the student.
   - This includes employees of a student's nonpublic/nonsectarian school and employees and operators of a group home in which the student resides.
   - It is important to note that, according to California law, foster parents ***are*** allowed to be appointed as surrogate parents, while group home operators ***are not.*** Foster parents include those who run foster homes, foster family homes, and small family homes. Operators and employees of group homes, large group homes and any home with an accompanying nonpublic school ***are not*** eligible to be surrogate parents.

   Whether or not the foster parent or the home operator serves as a surrogate parent it is important to keep them involved in the process since they continue to play a role in the remainder of the student's educational program (e.g., taking the student for immunizations, signing permission slips for field trips, enrolling the student in school, etc.)
6. A surrogate parent ***must not*** have a conflict of interest in representing the student.

California law defines "conflict of interest" as: "An individual who would have a conflict of interest...means a person having any interests that might restrict or bias his/her ability to advocate for all of the services required to ensure a free appropriate public education for an individual with exceptional needs." [Government Code Section 7579.5 (3) (e)]

The determination of whether or not a conflict of interest exists must be made on a case by case basis by the LEA and SELPA administrators. Local SELPA policy may include the following considerations as a "conflict of interest":

- Financial interests
- Being the employee of any public or private agency involved in the education of the child.
- Having any other interests, including institutional or other bias that might restrict or interfere with his/her ability to advocate for all of the services required to ensure a free appropriate public education for the assigned student with exceptional needs.

It is important to remember that the SELPA cannot refuse to appoint someone as a surrogate parent using standards that are unreasonable — such as appointing only those people who appear to always agree with educators. Once a surrogate parent is appointed, he/she has the same rights and responsibilities as a natural parent in regards to the student's special education program.

SURROGATE PARENT RIGHTS

A surrogate parent shall serve as the student's parent regarding special education matters and shall have the same rights regarding educational decisions as the parent has under Title 20 (commencing with Section 1400) of the United States Code and pursuant to Part 300 of Title 34 (commencing with Section 300.1) of the Code of Federal Regulations. In addition, the surrogate parent shall have any and all of the rights guaranteed to parents under the Individuals with Disabilities Education Act (Public Law 101-76).

The surrogate parent may represent the child in matters relating to: identification, assessment, instructional planning and development, educational placement, reviewing and revising the individualized education program, and in all other matters relating to the provision of a free appropriate public education of the child. [Government Code Section 7579.5 (a) (c) and E.C. 56050 (b)].

The surrogate parent is appointed to assure that the student's rights are protected. These rights include:

- the right to a free appropriate public education in accordance with an individualized education program (IEP);
- the right to receive an appropriate nondiscriminatory educational assessment administered in the child's primary language; and
- the right to be educated in the least restrictive environment appropriate for his/her needs.

A surrogate parent need never feel alone at any point in the process of assuring that the student receives the education determined most appropriate education for him or her. At each step there are resources to support the surrogate parent including the LEA, the SELPA, local community agencies, and advocates for students with exceptional needs. If the surrogate parent believes that the student is not receiving an appropriate education, he/she may initiate "due process" procedures. A surrogate parent has a right to:

1. Inspect and have a copy of all of the child's educational records
2. Request changes in inappropriate or inaccurate information contained in the student's records
3. Be informed about assessment procedures, tests, and all results
4. Seek an independent assessment if he/she believes that the school's assessment methods and/or results were inappropriate
5. Participate fully in the planning of the student's individualized education program (IEP)
6. Receive information about available special education services
7. Question the appropriateness of the student's educational program
8. Decide if a proposed special education placement and program is appropriate for the child, indicating the decision by either signing or refusing to sign the IEP
9. Talk with people involved with the student's education and receive both regular progress reports and routine communications
10. Review and make decisions on any proposed changes in the student's educational program
11. Request a parent/school conference, new evaluation, or planning meeting when necessary

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12. Have an outside person and the student attend any meeting, if appropriate
13. Be notified in writing when the school proposes any of the following:
    - assessment of the student
    - changing the student's placement
    - changing the student's IEP
    - calling an educational planning meeting
14. Receive information from the school about free or low cost legal services in the local area that might be needed for legal guidance in performance of surrogate parent duties
15. Initiate due process proceedings if needed
16. Be informed if the school is beginning due process proceedings

SURROGATE PARENT RESPONSIBILITIES

The law mandates that surrogate parents have the opportunity to participate in the IEP process. It does not, however, define the level of participation. In order for surrogate parents to act as decision makers on an equal basis with every other member of the IEP team, they must become knowledgeable about their rights and responsibilities, and learn techniques to organize the information they gather about the student.

Responsibilities that the surrogate parent may assume include:

1. Organizing the student's records by keeping a file of educational, psychological, and medical records
2. Learning about the student's educational needs through:
   - talking with him or her
   - observing him or her at school, at home, and in the community (under the supervision of school staff or caregiver)
   - reviewing and keeping samples of the student's school work
   - talking with the student's teacher(s) and other professionals who are involved in the student's education and care
3. Participating in school meetings to plan the student's IEP
4. Sharing specific information about the student and assisting in developing appropriate IEP goals and objectives for him or her
5. Monitoring the student's educational progress throughout the year and attending an annual review of the student's program at least once per year
6. Negotiating with the school if there is a disagreement about the student's educational needs or education program
7. Serving as the student's advocate by asking questions, requesting appropriate services, expressing satisfaction as well as dissatisfaction with services if necessary
8. Joining parent organizations such as the Home/School Club, PTA, CAC, Parent Teacher Association, or Community Advisory Committee
9. Attending school board meetings, parent meetings, and parent advisory committee meetings
10. Giving positive messages to teachers, counselors, administrators and school board members. This can be accomplished through writing notes and letters or making phone calls.
11. Facilitating collaborative interaction between the school and other agencies that work with the student
12. Keeping informed about current legislation affecting special education
13. Representing the student in any complaint or due process hearing

Confidentiality

A surrogate parent has access to the student's school records which may contain confidential information. The surrogate parent will also receive confidential information while talking with teachers, county social workers, and others who work with the student. It is important that the surrogate parent use this information with care and discretion and respect the privacy of the student and his/her family.

GETTING STARTED

As a surrogate parent, you may be assigned a student you do not know. You will need to take some time to learn about the student and his or her educational history. This is how you can accomplish this:

Gather Information

1. Read and make copies of the student's past and present school records.
2. Observe the student both in his or her school program and place of residence.
3. Learn about the student's disability.
4. Introduce yourself as the student's surrogate parent to all professionals who work with the student — teachers, therapists, social workers, supervisors, doctors, etc. Talk with them about the student's special abilities and needs.
5. Meet the student. If the student is young or developmentally disabled, present yourself as a "friend" rather than a "surrogate parent", as this may be confusing to the student. Begin to develop a profile of the student from your perspective using the "Student Profile Sheet."
6. Keep a log and file of all written and verbal contacts you have with the school and the student's place of residence.
7. Ask questions. Because you do not know the student well, you will need to familiarize yourself with all aspects of the student to be an effective and informed advocate.

Participate as a Team Member

As a surrogate parent, you will serve as a member of the student's individualized education program (IEP) team.

1. Know your rights and be prepared to actively participate in IEP meetings.
2. Review the evaluation procedures in the student's most recent assessment and request a copy of the results. Make certain the assessment is current and complete, and that results are explained clearly.
3. Review a copy of the student's most recent IEP to prepare to develop his or her new IEP. Investigate other school programs if appropriate.
4. Attend all parent/school meetings and conferences to plan and/or review the student's IEP. Make specific requests for services if necessary and set up a means for regular communication with the school. Keep the student's caseworker informed.
5. Make certain you have all the information you need to make an informed decision about the student's placement in a special education program.
6. Approve or disapprove the IEP. Even though you helped develop the IEP, you may not be satisfied with the final version proposed by the school. If you are not satisfied, you do not have to give consent to the IEP.

Candidates Ask Questions About the Surrogate Parent Appointment

1. ***Why can't staff members of the school or the care facility where the student lives be responsible for representing him/her on educational matters?***

   In the past, educational decisions about students with exceptional needs who did not have parents to represent them were made by the school and the agency legally responsible for the student. There are three problems with this process:

   • Both the school and agency may have budget restrictions that conflict with meeting the student's individual needs.

   • Neither the school nor the agency has time to learn all that is necessary to know to effectively represent the student.

   • Neither the school nor the agency can act as a totally neutral party to advocate for the student without conflicts of interest.

2. ***What is the difference between a surrogate parent and a foster parent?***

   A foster parent is not a surrogate parent unless legally designated as such. If the State assigns a foster parent as a "permanent foster parent," that parent would have the same stature as someone acting as a parent and would not have to be appointed as a surrogate.

3. ***Do surrogate parents receive a stipend?***

   There is no requirement in California law that a surrogate parent receive compensation; however, schools, LEAs or SELPAs may choose to cover the expenses (mileage, etc., of the surrogate or offer another type of payment for expenses).

4. ***Do surrogate parents have a choice in the selection of the student?***

   Yes. Surrogate parents may request assignment to a student with a certain disability or in a certain age group, for example.

5. ***Can a surrogate parent be assigned a student over the age of 18?***

   In California, students aged 18-21 are viewed as serving as their own parents.

   Therefore, unless they are wards of the State or have requested the appointment of a surrogate parent, they would not be assigned a surrogate parent.

6. ***Who has the final say about the student's educational program?***

   When a surrogate parent has been assigned to a student, the surrogate parent is the person officially appointed to work with the school in planning and monitoring the student's school program. Also, the surrogate's written consent is necessary before the school can proceed with the student's special education program. Although caseworkers, social workers, staff members from care facilities, and others will (and should) continue to be involved with the student's special education program, it is the surrogate parent's signature that counts as far as assessment, program, or placement decisions are concerned.

7. ***What should or shouldn't a surrogate parent sign ?***

   As a surrogate parent, you will be asked to sign all the forms relating to the student's special education program, including assessment and program placement. You should not give your consent to any proposal you feel is inappropriate for the student. Also, you should

not sign for anything you would be held liable for, such as permission for driver's education, school fees, field trips, etc. This type of permission form is signed by the caseworker, residential care provider, or other person responsible for his/her care.

8. ***How often can a surrogate visit the student's classroom?***

   As often as necessary to get to know the student and to begin a profile of his/her needs and abilities as well as to monitor how the program is working. You need to check with the school about the procedures for visiting the classroom by contacting the teacher or principal.

   You can make separate appointments with any of the school's staff (school psychologist, speech therapist, adapted physical education specialist, etc.).

9. ***Can a surrogate be held liable for making a wrong decision?***

   In California there is no legislation that specifically protects either natural parents or surrogate parents from being held liable. However, there has never been a situation in which a surrogate parent was held liable for his or her decisions.

10. ***How much does a surrogate parent need to know about the student's disability and where can this information be found?***

    To be an effective surrogate parent, it is helpful to acquire some information about the student's disability. The student's teacher, the LEA case manager for the student, the SELPA, and any of the appropriate state and national organizations, or the local library may have pertinent information that can help you.

11. ***Are surrogate parents' activities evaluated?***

    The SELPA local plan describes the process for appointing surrogate parent process in that region making sure that the surrogate parent is fulfilling the duties required.

12. ***After the appointment, where can a surrogate parent get answers to questions?***

    First, contact the teacher, principal, or other school person who works with the student. Other surrogate parents may also be a good source of support.

13. ***What happens if the school does not assign a surrogate parent to a student after the surrogate has been trained?***

    Do not be concerned. There are several reasons why a surrogate may not be immediately assigned to a student, such as few students are currently in need of a surrogate parent or there are more volunteers available than needed. If you feel there is a specific reason why you were not assigned student, contact the person in charge of surrogate appointments at the SELPA.

14. ***Why might the LEA or SELPA terminate a surrogate parent's assignment or appointment?***

    There are several reasons why the LEA or SELPA might discontinue your assignment:

    The student changes schools because of a change in living arrangements or residential needs.

    The student reaches the age of 18 and no longer needs a surrogate parent.

    The student's status as a special education student changes.*

    The school, LEA, or SELPA believes you have not fulfilled the responsibilities of a surrogate parent.

If your appointment is terminated, you should be informed about the reason why it was terminated, and you have the right to be heard to appeal the termination.

15. ***If the student no longer needs a surrogate parent, can the surrogate parent be assigned another student?***

Yes. Write or call the person in charge of surrogate parent appointments at the SELPA to let him/her know that you would like to be assigned to another student.

16. ***Can a surrogate parent resign?***

Yes. Contact the person in charge of surrogate parent appointments at the SELPA. You will be asked to return all copies of student information that you have.

17. ***As a volunteer, what is the surrogate parent's role at the student's place of residence ?***

You only have the authority to make decisions about the student's special education individual education program. However, it is important to periodically talk to all people involved with the student in his/her home environment in order to get a complete picture of the student's needs. Make sure the social workers and others at the residence understand your role as a surrogate, as this will help you to gain their cooperation in securing the information necessary to help you make decisions about the student's educational program.

** Because a surrogate parent participates fully in a student's educational program, he or she would be aware of any changes in the student's status and placement. A school could not suddenly terminate a surrogate parent's assignment/appointment because of such an anticipated change in placement. As a surrogate, you would be involved in this decision-making process.*

PARTICIPATING IN THE ASSESSMENT PROCESS

A surrogate parent should be a proactive, integral participant in the assessment process. Active involvement as a member of the IEP team can lead to effective decision making and program selections that will best benefit the student. The following are suggestions and tips directed specifically to the surrogate parent.

Assessment: Getting to Know the Student

If you do not live with the student, it is important for you to get to know him or her by:

- Spending time observing the student at home (under the supervision of the student's careproviders)
- Reviewing the student's records, and
- Talking with the student's caseworker.

Then you can begin to answer some of these questions:

1. How does the student learn?
   By watching?
   By hearing?
   In a group? Alone?
2. What are the student's moods and energy patterns?
   Is he or she active at specific times during the day?
   Does he or she display mood swings?
3. What special interests and hobbies does the student have?
   Indoors?
   Outdoors?
4. What are the student's attitudes and relationships to adults? Peers?
   To close adults, such as foster parents?
   Towards other students?
   Does the student play/interact with peers? With adults?
5. What does the student respond to?
   Verbal praise?
   Material things (food, toys, etc.)?
6. What kind of self-help skills and adaptive behavior(s) does the student exhibit?
   Independent of or dependent on adults? Other students?
   Level of self-help skills?
7. What is the student's developmental history?
   Age of walking?
   Age of talking?
   Age of compensating for the disability? (For example, at what age did a deaf student began signing? When did the student, who has a physical disability, begin using a wheelchair?)
8. What is the student's medical history?
   Any medications?
   A present medical problem that affects learning? A past medical problem?

If someone from the assessment team does not call you, call the LEA special education director to obtain the name of the person heading the assessment team. Remember, you are part of the assessment process, and your input is valuable.

Characteristics of a Special Education Assessment

An assessment describes *how* the student learns. This is more than what the student cannot do. Does the student learn best by touching? Listening to the teacher? Using certain senses? Does the student learn best alone? In a group? One-to-one with the teacher? What does the student need help with?

An assessment must involve a variety of methods. Methods should include:

- direct observation (in the student's classroom and other settings)
- formal and informal tests (comparisons with other students as well as personal progress)
- other tests and procedures (vision/hearing, speech/language, large and fine motor skills)

Tests are only one tool for learning about the student and they should never be the only method used to determine the student's educational program. Tests are one source of information about a student's growth and development, often in the areas of intelligence, adaptive behavior, academic achievement, auditory and visual perception, social maturity, physical coordination, and language. Such tests are given by trained professionals. Tests can:

- predict (to some extent) a student's ability to succeed
- describe what a student needs to learn
- measure and record a student's progress

The Individuals with Disabilities Education Act and California state law require that the tests be nondiscriminatory, meaning that there should be no test bias because of the student's race, sex, ethnic background, method of communicating, income level, or disability.

Questions to Ask

Asking questions is the surrogate parent's most powerful tool to learn about the assessment process and assessment results.

Before the assessment process begins, you may want to ask the professionals:

1. What tests are being administered to the student and why will these particular tests be used?
2. What information will be gathered and how will it be used for the student's education?
3. Will the student understand the test?
4. Are the tests non-discriminatory? Will they be given in the student's primary language?
5. Are the examiners qualified to give these tests?
6. What are some examples of the questions the student will be asked to answer or the activities the student will be involved in during the assessment?
7. How can I prepare the student for the assessment?

After the assessment you can ask to meet with the assessment team or a member of that team

prior to the IEP meeting. Some of the questions you might ask include:

1. What can the student do now? What do the test scores mean?
2. How well did the student do in reading? Math?
3. Are there ways the student can learn to be more self-sufficient? More independent?
4. How well is the student getting along with other students at school? In class? At lunch? At recess?
5. What about the student's relationship with his/her teachers? Aides?
6. Can the student adapt to varying situations? Is he/she too dependent on adults for guidance?
7. Are there problems with the student's vision or hearing? Physical development? Speech? Language?
8. What is the student's learning style? Does he/she work well alone? In groups? Does the student appear to be self-motivated?
9. What are the student's strengths? Weaknesses?
10. What areas need further assessment?
11. What types of programs will best meet all the student's needs?

Summary of Assessment Guidelines

1. No one test result can be used to place a student in a special education program.
2. A team of people, including specialists, surrogate parent, and the student's classroom teacher, participate in the assessment of the student.
3. All areas of the student's development related to his or her potential learning problems must be assessed.
4. Tests and other assessments should examine specific areas of possible learning problems, not just IQ.
5. To present a fair picture of the student's needs, all testing must take into consideration the nature of the student's disability and be nondiscriminatory.
6. A thorough assessment must be completed before the student can qualify for special education services and at least once every three years after the student is placed in a special education program. Check the student's records for the date of the most recent assessment. If you think the student's needs and abilities have changed, you can request in writing that the school re-assess the student, even if three years have not passed since the last assessment. Keep a copy of the request for your files.

PARTICIPATING IN THE STUDENT'S IEP

Communicating and Resolving Differences

Ongoing communication among the surrogate parent, school personnel, and other professionals is essential for effective and informed participation in the student's program. As a surrogate parent, you have the same rights — and responsibilities — as a natural parent. School meetings can be unsettling because you are one parent among many professionals. Even the most assertive and knowledgeable parents sometimes share the feeling of being at a disadvantage. However, you need to remember that everyone is there working together to benefit the student.

Effective communication is a two-way process. Communication is essential to develop the sense of understanding and support that both the professionals and the surrogate parent need in order to make effective decisions about the student's educational program. To foster meaningful communication, you should:

1. **Be prepared.**
   A surrogate parent should know in advance the important points to discuss and the questions to ask of the professionals. You may want to make a list and check off each item as it is addressed.
2. **Be direct.**
   Try to address comments and questions to the person who can best address or answer them to your best judgement.
3. **Be consistent.**
   While a surrogate parent should not lose his or her temper, neither should the parent smile pleasantly while discussing a serious point of disagreement. This can create the impression that the surrogate parent is not sincere.
4. **Be confident.**
   A surrogate parent should not feel guilty or embarrassed asking questions or assertively pursuing the best services for the student. That is your role and your right.
5. **Be under control.**
   There is a big difference between being assertive and being aggressive and out of control.
6. **Be involved.**
   Asking questions can be an effective way of both clarifying a point and keeping the lines of communication open.

The key to effective communication is preparation and a willingness to be actively involved in planning for the student's educational program.

Preparing for School Meetings

The surrogate parent's most important goal is to help develop the most appropriate educational program for the student. To get ready for this task:

- Be prepared to work cooperatively with the professionals involved with the student's program.
- Learn about what the student's needs are, and what the student can and cannot do.
- Be ready to share your questions, concerns, and/or positive feedback.

A surrogate parent may not know as much about the student as a foster parent acting as a surrogate. However, there are some actions that surrogate parents can take to acquire the necessary information to become an effective advocate for the student, including the following:

1. Visit the student's classroom.

   Make an appointment to observe the student in the classroom. Observing the student serves two important functions: it helps you to understand how the student performs in the classroom and how he or she is progressing, and it may help you in establishing rapport with the teacher.

2. Visit the student's home or care facility.

   This visit will provide you with insights into how the student performs at home, including his/her behavior, self-help skills, and interactions with family members.

3. Talk with the professionals who work with the student.

   The professionals can offer a wealth of information about the student's progress and personality.

4. Learn about the student's medical history.

   The student's medical history can provide insights into the student's performance in school, particularly if the student takes medications or if there are characteristics of the student's disability that might affect his/her abilities in an the educational setting.

5. Talk to the student if possible.

   Of course, some students are not able to communicate well, but in all cases where this is possible, the student can provide invaluable personal information and perspectives. Remember, all of your visits with the student must be supervised by school personnel or by someone responsible for the student in the home setting.

6. Review the student's records.

   Make an appointment to go to the student's school to read over the student's records. If there are any difficulties in understanding the assessment results, placement decisions, or previous IEPs, you should not hesitate to ask for clarification or an explanation.

7. Understand the nature and basis of the student's diagnosis, as well as his/her strengths.

   Understanding the student's disability and how it affects his/her learning is essential.

8. Share any information that you have gathered.

   Using the "Student Profile Sheet" (See the "Forms" section) as a guide, jot down any notes you consider important for everyone to know about the student. A foster parent who is a surrogate can share such aspects of the student's life as interests, hobbies, relationships to others, behavior at home and current problems.

9. Write down a list of questions.

   Before the meeting, the surrogate parent can review with the professionals any questions or areas of discussion deemed important for coming to a decision about the student's program. Asking the professionals in advance about their recommendations also can act as a catalyst for formulating questions prior to the IEP meeting.

10. Request a copy of the IEP form used by the student's school district.

    Review of the IEP form will give the surrogate parent a chance to see the components of the IEP that will be discussed at the student's IEP meeting.

11. Find out who will attend the meeting.

    Also, the surrogate can decide if it is necessary to bring a person from outside the school to the meeting. Notify the school if you choose to bring another person along.

12. Be ready to discuss your expectations for the student.

    A new surrogate parent can contact other parents and surrogate parents more familiar with the IEP process. There are many resources available for the surrogate parent to use. Attending local parent advocacy meetings or contacting various organizations that hold workshops on specific topics can lead you to other parents and professionals who can offer advice and support.

13. Jot down the student's needs and realistic expectations of progress for the year.

    If the student is in grade nine or is 14 years old, vocational needs should be included in the student's IEP. This is called a "transition plan", and it is developed to address the student's needs after graduation from school.

14. Determine how the student's educational program relates to what the student does at home.

    There should be some consistency between the student's educational program and the student's needs and levels of functioning at home and in the community.

These points are a framework for a surrogate parent's informed participation in the student's educational program. Adequate preparation may be time-consuming, but worthwhile, as it increases the surrogate parent's level of knowledge as well as his/her confidence and ability to assertively represent the student at IEP meetings.

Communicating at School Meetings

IEP and other school meetings are crucial parts of the student's educational program. The success of these meetings depends partly upon the thoroughness of the preparation made by the surrogate parent. A surrogate parent's responsibility extends beyond just giving consent and accepting explanations. Asking questions, bringing up issues to discuss, gathering information, and clarifying points are all part of the surrogate parent's role.

Everyone attending a IEP meeting experiences uncertainties; but, everyone — and most importantly the surrogate parent — must participate as a positive, assertive, and equal member of the team, respecting each person's viewpoints while not necessarily agreeing with everything that is said.

The meetings should reflect the surrogate parent's commitment to obtain the appropriate services for the student and protect his/her rights under the law. Using a positive approach and writing out specific questions *before* the meetings will result in an effective, joint endeavor on behalf of the student. Professionals realize that parents — whether natural or surrogate — do not have the same background and training as the school staff and they expect parents to ask questions. They also expect that the surrogate parent, while not an educator, has gathered enough information to know what questions to ask.

All team members, including the surrogate parent must work hard to establish a positive relationship. Everyone at the meeting has the same goal: to provide an appropriate educational program for the student.

Reporting Progress and Concerns

Effective communication requires an ongoing effort from the surrogate parent and the school professionals beyond the IEP and other school meetings. It is equally — if not more — important to maintain regular communication throughout the school year to monitor the student's progress and to try to resolve minor difficulties before they become major problems. Many special education teachers keep a daily journal or log for each student that includes comments and concerns about the student's performance that day. These journals or logs are usually sent to the parent on a daily or weekly basis. They may also be used by the caregiver or surrogate parent to communicate information about the student to the teacher. Telephone calls, a weekly written report, or recorded messages are also effective methods of communication.

While foster parents serving as surrogates do receive the school's bulletins, newsletters and announcements, volunteer surrogate parents do not. A volunteer surrogate parent should request a copy of the student's journal or log, or any other type of educationally relevant communication that is sent home to parents. Whatever the method of communication, the surrogate parent can take the initiative to assist in setting up the system, as well as request that the suggested system of communication be written into the IEP.

Another form of communication that is valuable for students with medical needs is charting. The surrogate parent may request that the teacher (or school nurse, etc.) chart information regarding the student's specialized health care needs, e.g., seizure patterns or attempts at toilet training. This process can offer insights into how the student's medical problems can affect his or her progress in school.

The IEP itself can serve as a form of communication. Comparing the goals and objectives listed on the IEP with information that is sent regularly from the school regarding the student's progress allows the surrogate parent to determine if the student is making satisfactory progress towards meeting the IEP goals and objectives.

Open and frequent two-way communication between the surrogate parent and the school provides both parties an opportunity to express concerns, discuss program needs, share observations, and share positive feedback regarding the student.

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Questions and Answers for Effective Participation in the IEP

1. How can a surrogate parent gain the confidence needed to participate fully in planning the student's educational program?

Of course, there is no way that a surrogate parent can become as familiar with the student as a foster parent. But, because the important first step has been made — agreeing to take on the role of surrogate parent — the rest is just taking the time to get to know the student and his/her educational background. By following the suggestions in this notebook, talking with professionals and other parents, and reading about the student's educational background, a surrogate parent can gain the confidence that comes through knowing the student and understanding the special education process. As time goes on and your experience and your knowledge base increase, so will your confidence.

2. Do professionals resent a surrogate parent's full participation at an IEP meeting?

This depends on the surrogate parent's attitude. Most people respond better to a positive, assertive attitude than a negative, aggressive one, or an unconcerned, passive one. If the surrogate parent is prepared, interested, and concerned, the professionals are more likely to see the surrogate parent as an equal and valuable participant.

3. What happens if one of the specialists working with the student is not included in the student's IEP meeting?

A surrogate parent has the right to request the presence of any person who might have important information to share about the student. The IEP meeting can be rescheduled if that specialist cannot meet at that particular time.

4. Can the IEP meeting be tape recorded?

There is no regulation against using a tape recorder. Some school personnel, however, might feel threatened. It is best to ask permission to use a tape recorder before the meeting. Some people use taping to avoid taking copious notes during the meeting or to review certain segments of the meeting.

5. If, during an IEP meeting, the emphasis of the student's program seems to be on academic skills while the surrogate parent believes that it should be on self-help skills, what should the surrogate parent do?

Since helping some students to function independently may be every bit as important as academics, self-help skills can be a necessary part of the student's educational planning. The surrogate parent should not be reluctant to express concern over the emphasis on academics if, based on the surrogate parent's observations of the student, self-help skill development appears to be as important, or perhaps more important, than academic skill development.

6. What happens if the surrogate parent requests a particular service for the student that the school cannot provide because lack of money?

If the IEP team agrees that a student needs a particular service, money cannot be used as an excuse for not providing *appropriate* services. The surrogate and the school must look for alternatives (e.g., is the service provided by a neighboring school district? an agency in the community?). While seeking alternatives, a temporary plan is written to indicate what will

be done for the student until that particular service can be provided adequately. The surrogate parent needs to monitor this process carefully to prevent any undue delay.

7. What if the school will not listen to the surrogate parent's concerns about the student's educational needs?

The first step is always reasonable discussion with school personnel, beginning with the teacher and going as far as the director of special education or superintendent, or SELPA director, if necessary. If these discussions fail, the surrogate parent can contact a parent or advocacy agency for assistance in deciding what the best options are and what steps should be taken or the surrogate parent can file for a due process hearing.

8. Is the IEP a legally binding contract?

The service outlined in an IEP must be carried out, but the goals and objectives are not legally binding because they express hoped-for results of the educational program. You cannot hold the school responsible if the student does not attain the stated goals and objectives. If these standards are not working, then they should be changed.

9. What is considered a "change" in the student's IEP?

Either adding or ending services detailed in the student's IEP constitutes a *change* in the IEP and requires parental approval. Another change is when the student moves from one "level of service" to another (e.g., from placement full-time in a special education classroom to part-time). Changes may not be made without the surrogate parent's approval.

10. Can the student receive special services if the surrogate parent refuses to sign the IEP?

The school cannot place the student into a special education program for the first time without your consent.

11. What if the surrogate parent does not understand what is written in the student's IEP?

Educators may use special education terminology that you might not understand. Do not hesitate to ask for clarification.

12. Can the student participate in extracurricular activities? Should this be written into the IEP? What about transportation to those activities?

Students with exceptional needs should have the opportunity to participate in extracurricular activities like sports, service groups, clubs, and art activities. When needed and appropriate, this should be written into the IEP, along with any special transportation requirements. If other children are transported to extracurricular activities, then the surrogate parent has the right to ask for some arrangement to be made to accommodate the child with special transportation needs.

RECORD KEEPING FOR SURROGATE PARENTS

You should learn as much about your student's education as you possibly can. As you gather information, you may want to follow these guidelines:

1. Keep a complete set of records.

This file should include any or all of the following:

a. Results of all tests conducted by school psychologists and other specialists that are used for diagnosing the student's needs.

b. Doctors' and nurses' reports.

c. Teachers' reports on the student's progress.

d. Samples of the student's work.

e. Copies of each of the student's IEPs and any additional documents related to the IEPs

f. Written records of phone calls you engage in regarding the student

g. Copies of letters and other written communications regarding the student

h. Copies of your notes and observations concerning the student

2. Document all actions you take on behalf of the student.

a. Keep copies of all letters which you send to school officials and other agencies

b. If you make any decisions concerning the student's education through a conference with school officials or through a telephone conversation, send a letter confirming these decisions. State in the letter exactly what has been decided. A written record is essential if the school fails to carry out its promises.

c. If you desire an assessment of the student, request it in writing.

d. If you wish to see the student's records, request it in writing.

e. If you desire a due process hearing to challenge the school's actions, contact your school principal, special education director, SELPA administrator, or the California Department of Education, Special Education Division to determine procedures.

You are entitled to a hearing if:

- you disagree with the assessment, placement or provision of a free appropriate public education for the student
- the school refuses to assess the student or make a change in placement which you have requested.

Helpful Forms for Surrogate Parents

STUDENT PROFILE FORM

Student:_____ Birth Date: _____

School: _____ School Phone: _____

Teacher: _____ Grade: _____

1. The student is interested in:_____

2. The student is ready to learn: _____

3. The student is best at: _____

4. The student needs the most help with:: _____

5. Special help the student has received in the past:_____

6. Problems with the student's current program: _____

7. Possible alternatives and/or additions to the student's current program: _____

8. Services that the student needs: _____

9. Special concerns I have about the student:_____

10. Questions I want to ask about the student: _____

11. Suggestions I have about working with the student: _____

CHECKLIST FOR SURROGATE PARENTS

Student's Name _____ Date _____

ITEM	YES	NO	N/A	DATE	FOLLOW-UP
I. BEFORE AN ASSESSMENT					
I received prior notice that my student was going to be assessed.					
My signed consent was obtained before assessment.					
I was informed about the specific areas and methods included in the assessment. *(If not, I asked for an explanation.)* *(I was satisfied with the answers.)*					
I requested that specific areas be included in the assessment. *(If yes, these areas were included.)*					
I have asked that pertinent data be obtained from other agencies and used in the assessment.					
I have visited the student at school.					
I have visited the student at his/her home.					
I have read all records on the student that are pertinent to his/her education.					
I have talked with the student's teachers and other people involved in his/her education and care.					
I am developing a *"Student Profile Sheet"* about the student.					
I have reviewed the section on *Assessment* in this Handbook for Parents.					
I have received a written notice requesting that an assessment be conducted for the student.					
I have read the assessment plan carefully, and I understand its statements and terms.					
I understand the tests and procedures that will be used with the student.					
I have monitored the assessment process to ensure that it is thorough and nondiscriminatory.					
I have provided any pertinent information I have about the student to the assessment team.					
I have received a letter inviting me to a conference to discuss the results of the assessment.					

Adapted from: *A Training Manual for Surrogate Parents.* Minneapolis, MN; Pacer Center, Inc., 1991.

ITEM	YES	NO	N/A	DATE	FOLLOW-UP
II. CONTENT OF THE ASSESSMENT					
All areas that are related to the student's learning problems were assessed.					
The school contacted me for information about the student.					
A team, including teachers, a psychologist, and others as needed, assessed the student.					
More than one assessment approach was used *(i.e. tests, observations, interviews, etc.)*					
The student was observed in the classroom *and* in other settings.					
The assessment included information about the students's strengths, as well as his/her weaknesses.					
The assessment provided a clear picture of what the student needs to learn.					
Based on what I know about the student and what I needed to find out, the assessment was thorough.					
The results fit what I know about my child.					
The assessment gathered meaningful, helpful information.					

Adapted from: *A Training Manual for Surrogate Parents.* Minneapolis, MN; Pacer Center, Inc., 1991.

ITEM	YES	NO	N/A	DATE	FOLLOW-UP
III. REPORTING ASSESSMENT FINDINGS					
I was invited to attend a meeting to discuss the results of the assessment.					
I was contacted about a mutually agreeable time for the meeting.					
I requested, and received, a copy of the report prior to the meeting so that I had time to review the results and prepare questions.					
The assessment findings were reported to me in clearly understandable language,					
(If no, I asked for an explanation.)					
(I received meaningful answers,)					
(I understand the information obtained from the assessment,)					
If this was a re-assessment, it was conducted no more that three years after the initial assessment.					
IV. MY ROLE IN THE ASSESSMENT PROCESS					
I provided the information to the assessment team that they requested.					
I used my *"Student Profile Sheet"* to gather information about the student.					
I shared this specific information about the student with the assessment team.					
I feel that I made a contribution to the assessment process.					

Adapted from: *A Training Manual for Surrogate Parents.* Minneapolis, MN; Pacer Center, Inc., 1991.

CHECKLIST FOR SURROGATE PARENTS

Student's Name _____ Date _____

ITEM	YES	NO	N/A	DATE	FOLLOW-UP
I. AFTER THE ASSESSMENT					
I was invited to participate in a meeting (known as a *student staffing*) to review and/or develop the student's IEP.					
The student staffing was scheduled at a time and place that was suitable to me.					
The student staffing included all required participants:					
A school representative					
The student's teacher					
Someone from the assessment team					
Myself					
The student (when appropriate)					
Other people: _____					
_____					
_____					
I invited other people to attend the meeting with me.					
Educators presented information in understandable language.					
I was given opportunity to ask questions about points regarding the IEP that I didn't understand.					
I felt like a fully participating member of the IEP team.					
I was encouraged to contribute significant information to my child's IEP.					

Adapted from: *A Training Manual for Surrogate Parents.* Minneapolis, MN; Pacer Center, Inc., 1991.

ITEM	YES	NO	N/A	DATE	FOLLOW-UP
II. CONTENT OF THE IEP *(This checklist should be used to determine if the student's IEP is complete. All of the items listed may not be applicable for the student, but the majority of them will be included.)* The IEP contained the following items: The student's present level of educational performance. Annual goals. Short-term objectives. The methods by which the student's progress in meeting the objective swill be measured. Specific special education instruction and related services to be provided. The names of the individual professionals who will be working with the student. Dates services are to begin. The amount of time the student will be given services *(for instance, "Robert will receive speech therapy in half-hour sessions three times a week.")* A description of the sites and the settings for the programs and services. Communication strategies established between me and the professionals who work with the student. Physical education—regular or adapted. Any special materials or equipment the student will use. Any dissenting opinions. A place for me to indicate my approval or rejection of the proposed IEP. a. ***Present Level of Performance*** A description of what the student can do includes information in these areas: *Self-help[skills (personal maintenance)* *Academic skills (reading, math, etc.)* *Social behaviors (how s/he gets along with others)* *Physical skills (coordination, running, etc.)* *Vocational or pre-vocational skills*					

Adapted from: *A Training Manual for Surrogate Parents.* Minneapolis, MN; Pacer Center, Inc., 1991.

ITEM	YES	NO	N/A	DATE	FOLLOW-UP
b. ***Annual Goals*** The goals are based on the student's assessment. The annual goals in the IEP seemed to fully meet the educational needs of the student. I was asked to contribute to the annual goals. The goals set for the student can be accomplished during the school year. The annual goals indicate what the student will be able to do when the services specified in the IEP are ended. c. ***Short-term Objectives*** The short-term objectives are written in specific accordance with each of the annual goals. Each short-term objective is written so that the student's progress in reaching it can be measured. d. ***Specific Services*** The IEP clearly states what special education instruction and related service(s) the student will receive this school year. The services to be provided and persons who will be providing the services are specified in the IEP *(for instance, "Reading instruction in small groups (four students) for one hour each day with learning disabilities teacher, Nancy Johnson).* The services for the student were determined by what was needed, not by what was available. I understand, and am satisfied with, the services to be provided and the personnel providing them. e. ***Dates of Service*** The dates for the beginning of services were clear. I know when the IEP services will end for the student (if this was agreed to) and what the student's performance is anticipated to be at that time.					

Adapted from: *A Training Manual for Surrogate Parents.* Minneapolis, MN; Pacer Center, Inc., 1991.

ITEM	YES	NO	N/A	DATE	FOLLOW-UP
f. ***Evaluation of Progress*** The method of checking the student's progress includes: *How it will be reviewed* *When it will be reviewed* *Who will be responsible for making sure this is done.* *Who in the school will communicate with me and when.*					
g. ***Time in Regular Class*** Some regular class placements were considered during the IEP meeting. _____ Ways in which the student will be integrated with students without disabilities include: _____ _____					
I am satisfied that every attempt was made to provide services for as much time as possible in the regular classroom.					
I believe that the IEP which we developed best fits the student's educational needs.					
A date was indicated for the review of the IEP.					
I received a copy of the IEP and have placed it in my file.					
III. PLACEMENT					
I gave written consent for the student to receive special education services.					
A variety of placement alternatives were available to the student and were explored and discussed.					
I feel that this is an appropriate placement. *(If no, I am investigating alternative placements.)*					
The student's placement was determined *after* the team decided what s/he needed and not vice versa.					
The student's IEP was in effect at the beginning of the school year.					
The student's IEP was developed and in effect *before* s/he began receiving special education services.					

Adapted from: *A Training Manual for Surrogate Parents.* Minneapolis, MN; Pacer Center, Inc., 1991.

IEP Checklist for Surrogate Parents

1. Present Levels of Educational Performance	1. What areas are covered (reading, writing, math, speech, language, social skills, self-help, vocational, psychomotor skills)? What assessment was done in the skill areas? When? Was the assessment thorough? Do the results correspond to your knowledge of the student's ability?
2. Annual Goals	2. Are they based on assessment of the student's performance? What changes are expected in the student's behavior? Given your knowledge of the student, are they appropriate?
3. Short-Term Instructional Objectives	3. Will they help the student reach the stated goals? Can the student's progress on each objective be measured? Could *you* tell if the student had mastered the objective?
4. Evaluation Procedures and Review Date	4. How will the student's progress be measured? When will the team meet to review/revise the IEP?
5. Placement Recommendation	5. What makes this placement appropriate to the student's needs? Will the student be in contact with nonhandicapped peers? How often?
6. Special Education and Related Services	6. What services does the student need (speech therapy, auditory training, etc.)? Will they be provided? How often? When will the services begin and end?

Adapted from a paper prepared by Eugene Edgar and Leonard Kenowitz, Seattle, WA: University of Washington, 1977.

Things Included in the IEP

Goals and Objectives

Yearly goals and objectives must be based on what the student is able to do at the time the goals and objectives are selected. If they are not based on current performance, the program will not help the student learn as much as possible.

Notes to Share or Information I Need (Use this space for notes you want to share with the team.)

What are the student's strengths? _____

_____

_____

_____

_____

Where does the student need the most help? _____

_____

_____

_____

_____

At this time, what do I consider the *most important* goals and short-term objectives for the student during the coming year?

_____

_____

_____

_____

_____

_____

_____

_____

_____

Things Included in the IEP *(continued)*

In what ways are new goals I have in mind consistent with the student's rate of progress during the past year?

What activities or progress have I observed that support the student's goal areas?

What are effective reinforcers for the student?

Things Included in the IEP *(continued)*

Yearly goals and objectives should be based on at least two kinds of considerations: the student's overall development needs, and how the student should be able to function at the end of his or her education program.

Notes to Share or Information I Need

What is the long-range plan for the student's . . .

total education and activities of daily living? How much personal independence will the student be working toward?

_____

_____

_____

_____

realistic academic achievement and skill development?

_____

_____

_____

_____

social adjustment (personal relationships, friends and support groups, and community life?

_____

_____

_____

_____

participation in regular classes or opportunities to spend time with peers who are non-disabled?

_____

_____

_____

_____

Things Included in the IEP *(continued)*

What considerations are being given to the type of vocational and community living choices the student will have after completing school?

How should the long-range plan be changed to take into account the progress the student has made during the last year?

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Adapted from California Regional Resource Center, Los Angeles, CA: 1980.

SUMMARY

- A surrogate parent has the same rights as a natural parent in the special education process.
- Good communication requires confidence, good listening skills, mutual respect, involvement, and adequate preparation
- At school meetings, it is important to share information the surrogate parent has gathered about the student through at-home and classroom visits and school records.
- Participation as a team member is enhanced by maintaining a positive and assertive manner.
- Listing concerns and questions that need to be addressed before meetings assures meaningful participation.
- Becoming familiar with the student's IEP can increase the surrogate parent's confidence when attending school meetings.
- Setting up a system for ongoing communication with the school is essential.
- Reviewing the IEP regularly can assist the surrogate parent in determining if the student is making progress towards the IEP goals and objectives.
- If there are disagreements between the surrogate parent and the school about decisions related to the student's educational program, it is best to try to resolve these problems informally through discussions and meetings.
- Organizations serving persons with disabilities and their families are a valuable resource for information for a new surrogate parent.
- Being a surrogate parent requires time, energy and commitment — but it is well worth it when you are helping a student with disabilities.

PART 3: ADMINISTRATIVE CONSIDERATIONS

The legal mandates, issues to address locally, sample appointment procedures, sample policies and local plans, sample forms, interagency communications, relevant codes and regulations, and the Attorney General's December 24, 1991 opinion regarding surrogate parents and mental health services

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PART 3: ADMINISTRATIVE CONSIDERATIONS

INTRODUCTION

The Surrogate Parent Mandate

Federal law requires state, intermediate, and local educational agencies to establish and maintain procedures for assignment of a surrogate parent whenever the whereabouts of the parent or guardian of the child are not known or available or the child is a ward of the state. The local education agency (LEA) is responsible to appoint the surrogate parent.

A 1985 federal review by the United States Office of Special Education Programs (OSEP) found that California practices relating to surrogate parent representation for special education pupils was not in compliance with authorizing federal laws and implementing federal regulations. California's noncompliance focused on conflicts of interest. During that time, social workers, probation officers, caseworkers, and other placement workers (including group home operators) were signing for educational decisions in the individualized education program on the pupil's behalf in the absence of a parent.

To bring California into compliance with the federal rulings, state legislation (AB 1528) was enacted in 1990 which set more specific direction for appointment of a "surrogate parent." AB 1528, which went into effect January 1,1991 is reprinted in this section. In addition, to assist LEAs in developing and implementing surrogate parent appointment procedures, the California Department of Education developed and disseminated *Surrogate Parents in California Special Education: An Overview.*

This Resource Notebook was compiled by two special education local plan areas (SELPAs) in their early implementation efforts.

Local Responsibilities

There are specific issues that need to be considered in the development of policies and procedures for the implementation of the federal and state requirements. A delineation of districts versus SELPA responsibilities will have to be made. Some SELPAs have agreed that the district or COE will determine who needs a surrogate, the SELPA will recruit, train, appoint the surrogate, and the district or COE will evaluate. In addition, it will be necessary to review the entire population to determine those who need surrogate parents. The following are areas in which LEAs will need to develop local policies.

Parent Status

The LEA will need to determine if the student has a parent or a "person acting as a parent." Local standards for reasonable search efforts will need to be developed. The local need for interim surrogate parents — when the parent is being searched for and the special education process needs to be initiated — will have to be assessed. Also, local practices related to surrogate appointments for adult students should be developed.

Conflict of Interest

A local policy regarding financial conflicts and other considerations may need to be developed.

Recruiting

Local recruiting efforts for volunteers for surrogate parent appointments will need to be defined and established.

Screening

In the development of the local appointment process, procedures for screening will need to be developed. Specific criteria may include: tuberculosis testing, Department of Motor Vehicles record, fingerprinting, and completion of a personal/employment information form. (Samples of local district's application forms are included in this section).

Appointment, Assignment, and Evaluation

LEAs will need to determine their own local policies and procedures regarding specific surrogate parent contract language, length of appointments, and termination of acting surrogate parents. A local policy regarding compensation may need to be considered. After the appointment of the surrogate parent, it will be necessary to determine the selection or assignment process of each surrogate parent to the individual student. Consideration will need to be made of age, distance, cultural factors, among others. Caseload levels appropriate for individual surrogate parents will also have to be set. In addition, a system of evaluation including criteria, timelines, and format will need to be established.

Appeal/Conflict Resolution

It would be beneficial to review Title 5 of the California Code of Regulations, Uniform Complaint Procedures in developing local processes.

Access to Records

The surrogate parent should have the same rights as the parent in regards to access to student records; i.e., full access. A policy of returning the records at the termination of the assignment may need to be established.

Liability

Consult local liability insurance representatives and legal advisors to determine surrogate parent status as related to volunteer requirements.

Interagency Procedures

Local interagency procedures will need to be developed to facilitate communication and documentation. Possible forms to develop can include:

- Court notification of change in status of parental rights
- Notification of child's status
- Confidentiality — court records
- Prior notification of placement in the SELPA
- Appointment of educational representative

This section includes samples of locally-developed policies and procedures, various forms, and interagency communications for LEAs to consider as they develop their surrogate parent appointment procedures. These are included as samples only and can be adapted and modified to meet each LEAs particular needs. Also included are federal and state codes and regulations relevant to these procedures.

THE APPOINTMENT PROCESS

This information is abstracted from *Surrogate Parents in California Special Education: An Overview*. The reader is advised to consult that document for the full text.

The suggestions presented for a step-by-step approach to the appointment process are offered for guidance only. Except for the referenced statutes, regulations, and court decisions, the described practices are not mandatory.

Getting Started

Initially, LEAs need to survey their special education population to determine their up-to-date need for surrogate parent appointments. A spreadsheet developed from local student records, databases or class lists may provide an initial needs assessment.

San Benito/Santa Cruz Counties Special Education Local Planning Area's coordinating council used class lists to identify two specific groups that did *not* require surrogate parents:

1. All students who are not wards/dependents of the court for whom a parent is known to exist.
2. All voluntary placements where parent retains authority.

The remaining pupil records were analyzed. The student information spreadsheet elements included pupil and parent names, date of birth, residential placement, dependency status, status of parent educational rights, location of parent, need for surrogate parent appointment, and dates of contacts, and responses, etc. Where student records were not complete, letters were sent to placing agencies, licensed children's institutions and foster family home operators, and parents in the case of adult pupils not in residential placement.

The ongoing review and "reasonable efforts" to find pupils who might need surrogate parents can be included in the following administrative review processes:

- IEP administrative placement, annual and triennial reviews
- Enrollment of pupils already eligible for special education
- The process of referrals for pupils suspected of having a disability

Step I: Contacting Parents

It is recommended that

a) efforts are made to locate the parent commence upon referral

b) the determination of the parent's location and status be made within 30 days

c) LEAs continue to send notices to the parent whose educational rights may still be intact

d) notices are sent routinely, even during the appointment of a surrogate parent

If the parent is located and expresses a willingness to participate in the educational process, the surrogate parent appointment would be terminated. If the parent is located but refuses to participate in the IEP team meeting or refuses to designate a representative to participate, the LEA may want to contact the placing agency to seek clarification from the court.

If the pupil is not a ward or dependent, and if the LEA cannot determine that the pupil is in a home with an adult who is acting as a parent or who could be appointed as the surrogate parent, the LEA is advised to consider whether the mandatory reporting requirements of WIC § 300 (a)(b) apply.

Reasonable efforts to contact parents include, but are not limited to, the following measures:

- Documented telephone calls
- Letters
- Certified letters with return receipts
- Documented visits to the parents' last known address
- Placing agency notice of a court order which terminates parent rights

If the reasonable efforts described above fail to locate the parent or to obtain parent status notification from the placing agency, an interim surrogate parent appointment may be necessary. This will facilitate timely IEP review and/or establish consent for special education assessment.

Step II: Selecting Surrogate Parents

The local surrogate parent appointment program is more likely to be successful if an ongoing process of recruitment, screening, and training is used to develop and maintain a pool of candidate surrogate parents.

Finding Volunteers

Appropriate community groups could be contacted for purposes of recruiting surrogate parents. It is recommended that such groups be given a clear explanation of the roles and responsibilities of educational representatives as well as an overview of the time commitments which are involved in representing a special education pupil. Volunteers should be informed that they will be representing children who have special and sometimes unique needs. They should also be informed that training is necessary [34 CFR § 300.514(c)(2)(ii)]. They must be willing to be trained to act as educational representatives for students requiring surrogates.

Other resources to consider are local school parent organizations, volunteer offices of LEAs, community advisory committees, retired teachers associations, service clubs, (i.e., Rotary, Lions, Soroptimists, Kiwanis), and Court Appointed Special Advocates. There are some volunteer organizations which have established screening processes for use in recruiting persons to work with children (e.g., Big Brothers, Big Sisters, Foster Grandparents, etc.).

Once individuals have been recruited, it would make sense to screen them with respect to criminal records, illiteracy, ill health, and conflict of interests.

It is suggested that reasonable efforts be made to ensure that individuals representing all sections of the community and all racial, ethnic, linguistic, and economic subgroups within it are recruited and made available for appointment as educational representatives.

Step III: Surrogate Parent Application

Local volunteer application procedures usually try to ascertain, at the outset, the following applicant information:

- Facts that show that they do not have any interests which will conflict with the pupil's in the area of special education
- Assurance that they have or are willing to acquire knowledge about the special educational interests of the pupil as well as to fulfill the role of educational representative
- Facts that show that they are not an employee of a public or private agency involved in the care or education of the pupil
- Assurance that they are willing to commit the time and energy necessary to effectively present and advance the best interests of students in educational matters without pay or reimbursements

It would be helpful to develop or adapt forms for a surrogate parent application procedure which will not only meet local personnel requirements but also assure appropriate surrogate parent appointments. Generally, implementing districts have included an application, a disclosure statement to screen potential conflict of interest, an acknowledgment that the potential appointee will complete the local training program for surrogates, and an agreement between the appointing agency and the surrogate parent which includes an assurance of confidentiality for student records.

The application package may also include a personal interest questionnaire, personal references for verification of personal information, releases of information for Department of Motor Vehicles screening or even possible fingerprinting. If an LEA already has an existing volunteer program, it may be expeditious to adapt the program for surrogate appointment purposes.

Step IV: Screening for Conflict of Interest

Federal law mandates that the "surrogate parent does not have a conflict of interest" [34 CFR § 300.514 (c)(2)(i).] Some factors to consider are whether the volunteer is:

1. Employed by an LEA or any public agency involved in the education or care of the pupil
2. Holds a position that might restrict or bias their ability to represent the pupil's educational needs
3. Holds a position that might subject them to administrative influence or reprimand for acting as the pupil's educational representative
4. Has interests that might restrict or bias his or her ability to advocate for all of the services for all of the services required to ensure a free appropriate public education for an individual with exceptional needs, as defined in section 56026 of the Education Code [Govt. Code Section 7579.5(e)].

Step V: Training of Potential Surrogate Parents

The responsibility of the SELPA/LEA to appoint persons who are knowledgeable about special education may be fulfilled by providing effective screening and training and consultation on an as-needed-basis for potential surrogate parents. Training and ongoing consultation with potential volunteers may include familiarization with the following:

- Educational needs of the pupil to be represented
- Local programs and related services available in the SELPA/LEA

- Procedural safeguards to ensure that the pupil's needs are met and IEP services are delivered
- Time commitments of surrogate parents

Step VI: Additional Procedures

It is suggested the following procedures be considered:

1. Match the pupil's needs to the most appropriate volunteer in the selection of the most appropriate potential surrogate parent.

2. Introduce the pupil and the potential surrogate parent.

3. Obtain a written agreement with the surrogate parent to serve the specific pupil in their individualized education program process and to maintain pupil and family rights to confidentiality.

4. Inform all involved persons and/or agencies responsible for the residential care and education of the pupil of the surrogate parent appointment.

It is also suggested that appointments be reviewed on an annual basis to determine if the parent status of the child still warrants the appointment.

Appointment Terms and Dismissal of Surrogate Parent

It is advisable for LEAs to establish policies and procedures for the dismissal, resignation, or involuntary removal of appointed surrogate parents and to monitor the surrogate parents who are appointed to insure that they perform their duties in the special education process and stay free of conflict of interest. The LEA should consider whether the mandatory reporting requirements of WIC § 300 (a)(b) apply. If decisions are made to rescind the appointment of a surrogate parent, it would be helpful if the reasons are documented and given to the volunteer.

Parental rights automatically revert to the pupil's parents when parents return to assume their role, unless their rights have been limited by a court. When the student reaches the age of majority, the student will assume the parental role within the IEP process. Emancipated minors or married minors can act in their own behalf educationally unless a court has determined otherwise.

While current law does not provide for the termination of surrogate appointments, LEAs may want to consider terminating the appointment under the following instances:

- Ineligibility for special education services is determined by the IEP team. (However, if due process is invoked to challenge the issue of ineligibility, the surrogate remains until the challenge is resolved.)
- Actions which fall under the mandated reporting laws and threaten the health and well-being of the child are present.
- Conflict of interest or material benefit is evident for the appointee or their family.
- The surrogate parent fails to perform duties in representing the child in the special education process.
- Parents are located and retain their educational rights.

Sample Policies and Procedures

Sample from Local Plan

San Benito/Santa Cruz SELPA

10000 - Special Education Local Plan Area
10500 - Students

Surrogate Parent Program: General Policy 10520

It is the policy of the San Benito/Santa Cruz Counties Special Education Coordinating Agency that each student who is referred for or is eligible for and in need of special education and related services and who requires the services of a surrogate parent shall have such surrogate parent appointed in a timely fashion to represent him or her in all matters related to the provision of a free appropriate public education for individuals with disabilities.

1.0 Each Local Education Agency (LEA) shall:

- 1.1 Determine which students shall require the services of a surrogate parent in accordance with state and federal laws and regulations.
- 1.2 Upon determination of the need for appointment of a surrogate parent, notify the SELPA Director within two days.
- 1.3 Be responsible for a proportionate share of the unfunded costs of implementation of this program based upon a formula determined by the Governing Council.

2.0 The SELPA Director shall:

- 2.1 In cooperation with LEAs, be responsible for the recruitment, selection, training, and appointment of surrogate parents.
- 2.2 Appoint a surrogate parent as soon as possible, but no later than five working days after the receipt of a LEA request.
- 2.3 Develop agreements with local and other agencies which are needed to implement the surrogate parent program.
- 2.4 Have overall responsibility for the operation of the surrogate parent program.
- 2.5 Develop procedures for the implementation of the surrogate parent program, including the evaluation and termination of the surrogate parent.
- 2.6 Determine reasonable costs, if any, to be reimbursed to the surrogate parent.

3.0 The surrogate parent shall have all of the authority, rights, and responsibilities of a parent/guardian in matters related to the provision of special education and related services. He or she must:

- 3.1 Remain free of all conflicts of interest.
- 3.2 Hold all information related to the assigned student(s) in strictest confidence.
- 3.3 Perform all of the duties required of the surrogate parent in state or federal laws or regulations and local policy and procedures.

4.0 Surrogate parents who are not also state licensed foster parents shall have access to the student only under supervision. The SELPA Director may impose screening and selection standards which complement those of state licensed foster parents or others who have access to students (e.g., fingerprinting).

Date Approved by Governing Council: First Reading: 6/13/91

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Sample from Local Plan

San Benito/Santa Cruz SELPA

10000 - Special Education Local Plan Area

10500 - Students

Students in Need of Surrogate Parents Policy 10521

It is the policy of the San Benito/Santa Cruz Counties Special Education Coordinating Agency that only students who are referred for or are eligible for and in need of special education and related services and who meet any of the following criteria shall receive the services of a surrogate parent.

1.0 No parent of the student can be identified after a reasonable search.

- 1.1 The SELPA Director shall determine which individuals may meet the definition of "person acting as a parent" in accordance with 34 CFR 300.514 and Education Code 56028. In the event there is a question as to the validity of the person acting as a parent, a surrogate parent will be appointed for the student.
- 1.2 A reasonable search is defined as documented efforts to locate the parent/guardian of a pupil.
  - 1.2.1 The search shall consist of a minimum of three search attempts conducted over a three week period utilizing two or more types of contact attempts (certified letter, telephone call, home visit, etc.).
  - 1.2.2 The SELPA Director may appoint an interim surrogate parent to represent the interests of the student while the parental search efforts are in process.
- 1.3 The student has been adjudicated a ward or dependent of the court and the court has specifically limited the right of the parent/guardian to represent the child in matters related to special education.
- 1.4 The student has reached the age of majority and has been declared incompetent to make his or her own educational decisions by a court of law and the pupil's conservator is an employee of a public agency involved in the care or education of the pupil or has another conflict of interest.
- 1.5 The student has no parent, guardian, or appointed educational representative or is not an emancipated or married minor.

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Sample from Local Plan

San Benito/Santa Cruz SELPA

10000 - Special Education Local Plan Area

10500 - Students

Use of Interim Surrogate Parents Policy 10522

It is the policy of the San Benito/Santa Cruz Counties Special Education Coordinating Agency that individuals shall be recruited and trained for the specific purpose of serving as interim surrogate parents in order to assure no delay in the provision of special education or related services.

1.0 An interim surrogate parent shall be appointed by the SELPA Director under any of the following conditions:

- 1.1 A student for whom no parent has been identified or located and who has an IEP transfers into the SELPA and requires an interim special education placement.
- 1.2 A student for whom no parent has been identified or located and who is referred to determine his or her need for special education and related services.
- 1.3 Pending replacement of a permanent surrogate parent in the event of a resignation or termination.

2.0 The interim surrogate parent shall have the same authority, rights and responsibilities as a permanent surrogate parent.

3.0 The services of an interim surrogate parent shall be terminated when any of the following criteria is met:

- 3.1 A permanent surrogate parent is appointed for the student.
- 3.2 The student is found to be ineligible or not in need of special education or related services.
- 3.3 The student no longer requires a surrogate parent.

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Sample from Local Plan

San Benito/Santa Cruz SELPA

10000 - Special Education Local Plan Area

10500 - Students

Surrogate Parent Program: Conflict of Interest Policy 10523

It is the policy of the San Benito/Santa Cruz Counties Special Education Coordinating Agency that no individual may serve as a surrogate parent who is found to have a conflict of interest:

1.0 Is an employee of any public or private agency involved in the education or care of the child.

2.0 Is the owner or employee of a licensed children's institution, residential medical facility or other similar facility with an interest in the education or care of the child. This prohibition does not include foster family homes unless the foster parent is deemed to have a conflict of interest as determined by the SELPA director.

3.0 Is the operator or employee of any private agency involved in the provision of educational or related services to the pupil.

4.0 Served in a voluntary capacity, including membership on the board, of any public or private agency involved in the education, care, or provision of services to special education pupils.

5.0 Has any other interests, including institutional or other bias that might restrict or interfere with his or her ability to advocate for all of the services required to ensure a free appropriate public education for the assigned individual with exceptional needs.

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Sample from Local Plan

San Benito/Santa Cruz SELPA

10000 - Special Education Local Plan Area

10500 - Students

Surrogate Parent Program: Termination of Appointment of Surrogate Parent Policy 10524
It is the policy of the San Benito/Santa Cruz Counties Special Education Coordinating Agency that no duly appointed surrogate parent may be terminated except for cause. A surrogate parent's authority to represent individuals with exceptional needs in all matters relating to the provision of special education and related services may be removed for factors including but not limited to any of the following:

1.0 The student is no longer a ward or dependent of the court and a parent/guardian has been named and located.

2.0 The court reinstates the right of the parent/guardian to make educational decisions for the student who is a ward or dependent of the court.

3.0 The student reaches the age of majority unless the student is declared incompetent by a court of law.

4.0 The student is no longer eligible for special education and related services.

5.0 The parent or guardian returns and assumes educational responsibility for the student.

6.0 The appointment of the surrogate parent is terminated by the SELPA Director following an unsuccessful evaluation with no clear demonstration of improvement.

7.0 The surrogate parent is found to have a conflict of interest as determined by the SELPA Director, or otherwise no longer meets the criteria for appointment.

8.0 The surrogate parent takes actions which threaten the well being of the assigned student.

8.1 The SELPA Director shall immediately suspend a surrogate parent upon receiving a complaint of child abuse against the surrogate parent, either with regard to the student represented by the surrogate parent or any other minor.

9.0 The student moves out of the SELPA.

10.0 The student becomes emancipated, married, or meets other criteria which eliminate his or her need for a surrogate parent.

Date Approved by Governing Council: First Reading: 6/13/91

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Sample from Local Plan

Fresno County SELPA

Fresno County Special Education Local Plan Area

Policy No. 91-15 First Reading: September 12, 1991

Draft No. 2 Second Reading:

Policy Title: Surrogate Parents and Procedures

The SELPA Policy Committee will determine the responsibility for all components of the Surrogate Parent Program by adoption of a policy. The need of students to have a surrogate parent will be determined by the LEA based upon California and federal law.

1. An appointment of a surrogate must occur when:

A. A parent, guardian, conservator cannot be located. "Parent" means a parent, a guardian, a person acting as a parent of a child, or a surrogate parent. The term "parent" includes persons acting in the place of a parent, such as a grandmother or stepparent with whom a child lives, as well as persons who are legally responsible for a child's welfare or have legal custody of a child. In certain circumstances a foster parent may act as the parent.

B. The agency, after reasonable efforts, cannot locate a parent.

Reasonable search for parents will consist of a minimum of three efforts of different types of search including the following:

1) Documented phone calls.

2) Letters.

3) Certified letters with return receipts.

4) Documented visits to parents' last known address.

5) Contacts to placing agency for address, phone numbers.

6) Placing agency's notice of court order which terminates parent's rights.

C. The child is a ward or dependent and the court has removed the parent's rights to make educational decisions.

D. The child may need an interim surrogate parent when the child is initially placed in a SELPA in order to meet requirements for immediate placement while the status or location of the parent is researched.

E. See attachment #l for persons not eligible to be a surrogate.

2. Recruitment, screening and selection of candidates will be implemented by local educational agencies (LEAs) based upon a check list (see attachment #2) established by the Policy Committee. Procedures for this effort will be determined locally. No person may be selected who has a conflict of interest.

The SELPA staff will develop and conduct surrogate parent training. This will not preclude locally conducted training based on a training packet developed by the SELPA staff.

3. Evaluation of surrogate parent performance will be based upon a review of the surrogate's log of activities and fulfillment of contract.

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Sample from Local Plan

Fresno County SELPA

4. Reappointment/Term of Appointment will be determined by the LEA, but is not to exceed one year. The term may be renewed by the LEA based upon the evaluation (surrogate parent's log of activities see attachment #3). Otherwise, the term automatically expires. The surrogate parent may request to terminate the contract with 30 days notice. (See attachment #4 for sample contract.)

5. Removal prior to the end of the term shall occur only for good cause, e.g. failure to represent the student's interests, exceeding the defined role, engaging in illegal activities, etc.

Surrogate parent authority shall include all aspects of planning for a suspected disabled pupil's special education program including giving permission for assessment and placement, meeting to develop an Individualized Education Program and annually (or more frequently as necessary) reviewing the pupil's special education program.

6. Their role is to represent the student and to monitor the educational services and will preclude social activities with the pupil. Responsibilities will include but not be limited to:

A. Participate in surrogate parent training.
B. Commit to serve for a designated term.
C. Give written permission for assessments and placement.
D. Study the student's records and background.
E. Sign educational documents as appropriate.
F. Participate in meetings to develop IEPs.
G. Monitor the pupil's educational progress.

A surrogate parent's interaction with the pupil will be limited to visitations at the school. Should a home visit become necessary, it will be made only when the surrogate is accompanied by another person selected by the LEA for this purpose. The surrogate parent will utilize the district address and telephone number if it is necessary to provide this information in their role as surrogate.

7. Compensation shall consist of reimbursement for out of pocket expenses such as telephone calls, mileage and stamps. This will be paid by the LEA utilizing the surrogate parent's service. Procedures shall be established by the LEA.

8. Surrogate parents assume rights to records access and may sign documents for release of information. Any documents copied for surrogate parents should be retrieved and destroyed when the surrogate parent no longer represents the students.

Surrogate parents shall be held harmless of liability issues for actions performed in line with assigned duties and responsibilities. This precludes any illegal or immoral acts.

Surrogate parents will be provided the same insurance coverage as other school volunteers.

Should a surrogate parent wish to implement due process proceedings or court hearings against the district and he/she desires legal counsel, free or low cost legal services will be recommended to them.

9. Caseload will be determined by mutual agreement between the surrogate and the LEA.

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Sample from Local Plan

Fresno County SELPA

Surrogate parents will be made aware of agencies that are available to provide services to disabled pupils. They will be trained regarding those agencies for which they may request services. In the case of Mental Health and California Children's Services, their signature may be required to access services.

10. Appeals and conflicts between the surrogate parent and the district may be referred to the SELPA Executive Committee for resolution.

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Rev. 6/3/91
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Attachment #1

A child does not need a surrogate when:

1. The court has not removed parent's rights.
2. A guardian has been appointed (by the court).
3. The placement was voluntary (although parent's can appoint a representative). This includes AB 3632 residential placements.
4. The student is 18 and no conservator or guardian has been appointed no matter how low functioning.
5. The student is a married or emancipated minor.
6. The disabled parent of a disabled child can give consent for their child but not for themselves.

Persons not eligible to be surrogates:

1. Public agency employee, i.e., probation officer, social worker involved with care/education of child. Use care in selecting retired staff to avoid possible bias.
2. Private agency personnel including group home/NPS operators or any member of their staff (e.g. house parents).
3. Member of public or non-profit boards with conflicts of interest (e.g. Area Board).
4. Foster parents/foster family home types with financial conflicts.

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5/22/91
Rev. 6/3/91

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Sample Forms

Sample Cover Memo

San Benito/Santa Cruz Counties
Special Education Local Plan Area
9055D Soquel Drive
Aptos, CA 95003
408/688-7703

To: Special Education Council
From: Linda Bourgaize
Subject: Initial Determination of Student Status re Appointment of Surrogate Parents
Date: January 18, 1991

As per our agreement at the January 7, 1991 SEC meeting, this memo outlines steps to determine the status of students relative to the need for appointment of surrogate parents. As you will recall, it was agreed at the meeting that this process would be completed by the district of service for existing students and the district of residence for new students.

The following steps are recommended:

1. Utilizing class lists:

   a. Eliminate all students for whom a parent is known to exist.

   b. Through a review of existing Form 24s eliminate all voluntary placements where the parent retains authority and has or has not appointed an educational representative.

2. Using a compiled (central office) method or decentralized method, send the attached sample letters (or something like them) for each remaining student. The first letter should be used for all LCI/FFH pupils. The second and accompanying form should be used for all remaining adult pupils. Also attach a copy of the revised draft Form 24 which must accompany the first letter. The letter should go to the placing agency if know, the home operator, or the parent in the case of an adult not in placement.

3. Pursue responses to the requests for information outlined above. Maintain a tally of students requiring surrogate parents. A sample form is attached. A log of contacts must also be maintained for all students.

4. Be prepared to report on your progress at the February SEC meeting and each month thereafter. We will need to establish a clear timeline for completion of this task.

5. Since this is a complicated process, please call me with any questions. A revised chart depicting the process is also included for your information (hopefully).

Reprinted with permission from San Benito/Santa Cruz.

Screening Forms: Total Pupil Population

Date:

Student:

Birthdate:

Dear _____

In accordance with a new California law which became effective on January 1, 1991 it is necessary to more accurately determine the status of the above named student regarding who can legally represent him/her for special education purposes. Please utilize the attached form and complete all indicated information. This form MUST be signed by the placing agency (e.g. social worker, probation officer, regional center worker).

When completing the form it is essential to note the following:

1. Parental rights to represent a pupil for educational purposes can only be removed by specific court action W&I Section 361(a).

2. If the court has not removed parental rights to represent the child for educational purposes, the placing agency must provide the location (address/telephone number) of the parents or state that the location of the parent/guardian is unknown.

3. If the student has reached the age of majority it is essential to complete the section related to his or her conservator if any.

Once this process has been completed, the pupil's parents (in the event that the court has not specifically removed their right to represent the pupil for educational purposes) will be contacted and asked to participate in the educational process on behalf of the child. If the pupil is an adult who is not conserved related to his/her rights to make such decisions, the pupil will represent him or herself. If a conservator exists, the status of that person will be evaluated to determine his or her rights to presented the student. For those minor pupils who have no parents, whose parents do not retain authority or whose parents cannot be located, alternatives will be implemented to assure educational representation in accordance with state and federal law (e.g. appointment of surrogate parents).

Thank you for your cooperation in this matter. Please return the attached form to _____ by _____. Should you have any questions or require further information please contact _____.

Sincerely,

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Adapted from San Benito/Santa Cruz.

NOTIFICATION OF PLACEMENT OF INDIVIDUAL WITH EXCEPTIONAL NEEDS IN LICENSED CHILDREN'S INSTITUTION OR FOSTER FAMILY HOME

Education Code Section 56156 et seq.
Government Code Section 7579 et seq.

Directions: To be completed by placing agency representative at the time of placement/transfer of a school-age individual with exceptional needs into a licensed children's institution or foster family home within the special education local plan area (SELPA).

To SELPA Director — County/District

From (name and title of placing agency representative) — County/Agency name — Telephone

Address — City — ZIP code

Name of pupil (last, first, and initial) — Birth date

Case/Client no. — Date of placement — Ethnicity — Primary language (other than English)

Parent or guardian (last and first) — Telephone

Address — City — ZIP code

Care provider (last and first) or facility — Telephone

Address — City — ZIP code

Conservator/Position/Agency (if appointed) — Telephone

Address — City — ZIP code

County of child's prior residence — Previous school district attended — City

The following applies to the client's educational representation (check all that apply):

The child has a current Individual Education Program (IEP).
The child is a ward or dependent of the court.
The court has removed parent/guardian rights to represent the pupil for educational purposes.
The client is an adult with no conservator having educational authority.
A conservator has been appointed to represent the student:
General conservatorship
Limited conservatorship
The parent/guardian is deceased (provide date of death) or whereabouts are unknown to the agency.
Provide last known address (with date).

Other:

Signature of placing agency representative — Date

>

FOR USE BY SELPA ADMINISTRATOR

District of residence — Notified by — Date

(Adapted by Surrogate Parent Working Committee with permission of San Benito/Santa Cruz Counties SELPA, 3/91.)

Request for Information from Noneducational Agency

Date
Student
Birth date

Dear _____:

In accordance with a new California law (California Statutes, Chapter 182) which became effective on January 1, 1991, it is necessary to accurately determine the status of the person who may legally represent the above-named student for special education purposes. Please use the attached form and complete all indicated information. If the adult pupil is not conserved relative to their rights to make educational decisions, the pupil may represent themselves. If a conservator exists, please indicate their status regarding his/her right to educationally represent the pupil.

If parent educational rights have not been limited, please provide as much information as possible. We would appreciate assistance in locating the parents.

Thank you for your cooperation in this matter. Please return the attached form to_____by _____.
Should you have any questions or require further information, please contact _____.

Sincerely,

Screening Forms: Pupils 18-22 Years

(continued)

Date:
Student:
Birthdate:

1. Is this student conserved?
   - ☐ Yes (if so, please continue)
   - ☐ No (stop and go to the end of the form)

2. Is the nature of the conservatorship
   - ☐ Related to the pupil's property only (stop and go to the end of the form)
   - ☐ Related to the pupil's rights to make decisions for him/herself in person
   - ☐ Both

3. Is the nature of the conservatorship
   - ☐ Limited
   - ☐ General (stop and go to the end of the form)

4. In the case of a limited conservatorship, have the student's rights to make educational decisions been specifically removed?
   - ☐ Yes
   - ☐ No

For conserved pupils:

Conservator: _____
Name: _____
Address: _____
City/State/Zip code

Does the conservator work for a public agency
- ☐ Yes
- ☐ No

If yes:
Position _____
Agency _____

If no:
Relationship to Pupil _____

Completed by:
Signature _____
Date _____

Return to _____
By _____

Screening Log Form

Pupil	D.O.B.	LCI/ FFH	Ward Dependent	Parents Rights Removed	Parent Located	Conserved Adult	Surrogate Needed	Supportive Information (e.g., dates, address)

Screening Log Form

Parent Representative Assignment Form

San Benito/Santa Cruz Counties
Special Education Local Plan Area

Directions: This form may be used when the parent remains the legal guardian and chooses to delegate responsibility to an educational representative.

I appoint _____, to act as my representative in connection with the education of my child, _____. This representative shall have full parental authority in matters relating to the identification, assessment, instructional planning and development, educational placement, reviewing and revising the individual education program, utilization of procedural safeguards, and other matters relating to the provision of a free appropriate education of my child.

This appointment shall remain in effect until any of the following occur:

1. I notify the LEA and/or SELPA Administrator of my child's attendance that this appointment is withdrawn. (A parent may do this at any time).

2. The representative is unwilling or unable to carry out his or her responsibilities to the best interest of my child.

3. The representative is in a position with a conflict of interest in the above matters.

4. My child no longer resides in the "licensed children's institution or foster family home", owned or operated by the above representative (applicable only when child is placed in a "licensed children's institution or foster family home").

_____ _____
Parent signature Date

_____
Witness

Acceptance of Appointment

I, _____, hereby accept the above appointment. At such time as any of the conditions 2, 3, or 4 above, relating to the tenure of this appointment, exists, I will notify the LEA of attendance or SELPA Administrator and the appointing parent.

_____ _____
Representative signature Date

_____
Witness

Any specific conditions or exceptions to this appointment shall be made on a separate sheet and signed and dated by the parent, the representative and witness.

Adapted from San Benito/Santa Cruz SELPA.

Screening Form: Identification of Students Needing a Surrogate Parent

Screening Form

This is a screening form to identify who is currently signing IEPs as the parent representative and determine the need for a surrogate parent. Please complete for each special education student.

Student's Name _____
Date of Birth _____ Home Phone _____
Ethnicity _____
Special Ed. Teacher _____
School _____ Phone _____
Date of Last IEP _____ 3 Yr. Re-Eval _____

Who is currently signing the IEP as the parent/guardian? (Name)
_____

What is their relationship to the student? (Check)

_____ Parent (natural or adoptive)
_____ Relative (other than parent)
_____ Surrogate Parent
_____ Friend
_____ Foster parent
_____ Public Agency Representative
_____ Private Agency Representative
_____ Court appointed personnel
_____ Group Home Provider
_____ Unknown
_____ Other (please specify)

If the child is placed in out-of-home care please list:
Placing Agency & County _____

Contact Person from that Agency & Phone Number _____
_____

Name of Agency/program where child is placed _____
_____

Send completed Form to: Department of Special Education
Compliance Office
700 Font Blvd., Room 31A
San Francisco, CA 94132
Attn: Pat Napoliello

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Adapted from Department of Special Education, San Francisco Unified School District

District/School Request For Surrogate Parent

Request for Surrogate Parent (Educational Representative)

Student's Name _____

Date of Birth _____ Ethnicity _____

School _____ Phone _____

Current Teacher _____

Child is currently living with _____

Address _____

Relationship to child _____ Phone _____

Child's Legal Guardian (if known) _____

Status of natural parents: _____Location unknown

_____Child is ward of the Court

_____Other (please describe)

Is there anyone in the child's life who can serve as the educational representative?

____No ____Yes Name _____

Address _____

Phone _____

Relationship to child _____

Department of Social Services Worker _____Phone _____

Probation Officer: _____Phone _____

Other Agency Personnel: _____Phone _____

Agency _____

Submitted by _____ Date _____

Adapted from San Francisco Unified School District

Application For Surrogate Parent

EDUCATIONAL REPRESENTATIVE (SURROGATE PARENT)
INFORMATION/REGISTRATION

Name _____

Home address _____

Home phone _____ Business phone _____

Employer _____ Occupation _____

Business address _____

Ethnicity _____ Bilingual skills _____

Have you had <u>any</u> affiliations with the school district in <u>any</u> capacity as a parent or a professional?

☐ Yes ☐ No

If so, what was your role and which school were you associated with?

Are you willing to participate in a training on the role, rights, and responsibilities of an educational representative?

☐ Yes ☐ No

To serve as an educational representative, it must be established that you have no interests that conflict with the interests of the child. Therefore, we are asking you to answer the following questions:

Are you an employee of the school district or any public agency involved in the education or care of the child?	☐ Yes	☐ No
Do you hold a job that might restrict or bias your ability to advocate for the child's educational needs?	☐ Yes	☐ No
Do you hold any position that might subject you to administrative influence or reprimand for the faithful execution of your duties as an educational representative?	☐ Yes	☐ No
Do you hold any opinion or institutional bias against the school district or the public agencies involved in the education or care of the child?	☐ Yes	☐ No

(Adapted with San Francisco Unified School District permission, 3/91.)

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Community Volunteer Application Form

Volunteer Initiative Program: Santa Cruz County/Voluntary Bureau

Name _____ Today's Date _____
Address _____ Home Phone _____
City/ Zip _____ Work Phone _____

In emergency contact (Name and Phone) _____

What kind of volunteer work are you interested in? _____
_____

What do you expect to get from volunteering at the County of Santa Cruz?
_____
_____

Hrs/Wk Available _____ Preferred Days _____ Mornings_____
Weekdays_____ Afternoons _____ Weekends_____

Starting From _____ to _____

Transportation: Car ____ Bus ____ Bike ____ Walk ____

Previous Work Experience _____
_____

Previous Volunteer Experience _____
_____

Special Skills or Hobbies _____

How did you hear about the Volunteer Initiative Program?

____ Help Wanted Ad ____ Bulletin Board ____ Radio
____ Counselor (name): _____
____ Newspaper Article ____ College/University
____ Friend (name): _____
____ Other (specify): _____

Education: Circle last year completed

High School 1 2 3 4 College 1 2 3 4 Graduate School 1 2 3 4

Are you currently enrolled in school? Yes ____ No ____
Where? _____ Major _____

Are you currently employed? Yes ____ No ____
If yes, hours worked per week _____

To Be Filled Out by the Coordinator. . . .

Referred to	Date	Action
_____	_____	_____
_____	_____	_____

Adapted from San Benito/Santa Cruz SELPA

Dedicated Older Volunteers in Educational Services (DOVES) Form

SCHOOL VOLUNTEER APPLICATION
Los Angeles Unified School District
Please return to:
Odaris I. Jordan, Director
Volunteer & Tutorial Programs
Los Angeles USD
450 N. Grand Ave., Room G-252
Los Angeles, CA 90012
Telephone:
Valley (toll-free):

( ) Mailing list
( ) File card
( ) I.D. sent

ASSIGN TO

School

Region Date of application Date volunteer placed

X-RAY

Number Date

Name

Birthdate Month

DOVES VOLUNTEER (last and first) Age (optional)

Mr. Miss

Mrs. Ms.

Home address (street, city, ZIP)

Home telephone Business telephone

IN CASE OF EMERGENCY, NOTIFY:

Name Telephone

Address

HOW WERE YOU RECRUITED?
☐ Newspaper ☐ TV ☐ Radio ☐ Flyers Other:

Name of organization

PLACEMENT PREFERENCES
☐ Willing to go where needed
☐ Near home
☐ At home

Can serve:
☐ Morning ☐ Evening
☐ Afternoon ☐ Saturday

Days I can serve:

Maximum number of hours per day

Grade level I prefer:
☐ Preschool
☐ Junior ☐ Adult
☐ Elementary
☐ Senior ☐ Special

LIFE EXPERIENCE
Do you have a cultural background you can share with children? ☐ Yes ☐ No If so, what is it?
Previous occupation
Retired from (name of company) Years employed
Present employment (name of company) Hours

AFFILIATIONS
Union Trade associations Professional organizations Fraternal organizations

EDUCATION: ___Eighth grade ___College ___High school ___Postgraduate

WHAT CAN YOU DO AS A DOVES VOLUNTEER?
Your most valuable asset is your love of children and your desire to help. You may tell stories, particularly tales of your early childhood. Most children are enthusiastic and delighted with true life experiences, such as: "When I was your age" or "I remember." Below is a partial list to look over.

PLEASE INDICATE AREAS IN WHICH YOU WOULD LIKE TO HELP:
Tutoring individual children
Working with small groups Making instructional materials Sharing an interest in art, music, dancing, photography, sewing, knitting, cooking, sports, carpentry, etc. Sharing career or job experience Helping in library Reading or telling stories Counseling Playground Typing or clerical Other (explain):

Signature Date

Acknowledgment of Application Form

Date

Re: Surrogate Parents

Dear _____:

Thank you for volunteering to serve as a Surrogate Parent. We appreciate your interest and we are delighted that you have volunteered to assist in representing the interests of special education children in Fresno County.

In order to insure that you have the basic knowledge and skills to insure adequate representation of special education children, the Fresno County Superintendent of Schools and the Central Unified School District have jointly prepared a training program for you. Your training package should include the following documents:

1. A pamphlet entitled "A Handbook for Parents" prepared by the Fresno Special Education local plan area;
2. A pamphlet entitled "Questions and Answers on Surrogate Parents" prepared by the State Department of Education;
3. A pamphlet entitled "Protecting the Rights of Exceptional Children: A Resource Manual for Surrogate Parents" prepared by the State Department of Education;
4. A policy statement for special education on procedural safeguards and parents surrogate prepared by the State Department of Education;
5. A copy of the Fresno County Special Education Local Plan Area document (parts one and two); and
6. A booklet prepared by the State Department of Education entitled "Special Education Programs: A Composite of Laws";
7. SELPA Assessment Plan form;
8. Parents Rights and Due Process, including Addendum;
9. SELPA form Prior Notice of IEP Meeting;
10. IEP form, page 1 and page 2.

As you know, a training session has been scheduled for March 1, 1988. Additional training sessions will also be held in the near future.

If, at any time, you desire any assistance in learning how best to represent the interests of students for whom you have agreed to serve as surrogate parent, please feel free to contact us.

Sincerely,

Dave Swain,
Pupil Personnel Director
Fresno County Superintendent of Schools.

Diane Cords
Director of Special Education
Central Unified School District

Acknowledgment of Receipt

I, _____ hereby acknowledge receipt of the training materials listed above.

Dated: _____ _____

(Name of person above)

Screening Checklist

- ❑ 1. Cultural sensitivity to the background of the handicapped child represented.
- ❑ 2. Willingness to learn educational system
- ❑ 3. Interest in working with special education students.
- ❑ 4. No criminal background.
- ❑ 5. Valid California drivers license, if necessary, to perform specific surrogate parent duties.
- ❑ 6. No conflict of interest.
- ❑ 7. Not an employee of a public agency which is involved in the education or care of the child.
- ❑ 8. Knowledge and skills that insure adequate representation of the child, i.e. attended Surrogate Parent Training on _____ (date)_____.

Adapted from Fresno County SELPA

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Sample Training Post-Test

Surrogate Parent Regional Training

Participant Name _____

Trainer _____ Date _____

For questions 1-6, circle whether each item is true (T) or false (F).

1.	T	F	A surrogate parent may be appointed by the local educational agency (LEA) for a child with disabilities or a child suspected of having disabilities if the whereabouts of their parents is unknown.
2.	T	F	A surrogate parent may be appointed by the LEA if a child with disabilities or suspected of having disabilities is a ward of the state and has been placed in the care and custody of a state or local agency.
3.	T	F	A child's teacher could be assigned as that child's surrogate parent.
4.	T	F	The surrogate parent shall represent the child in all matters relating to identification, evaluation, and educational placement.
5.	T	F	An individual may be certified as a surrogate parent whether or not he or she has successfully completed the training program provided through the LEA.
6.	T	F	The duties of the surrogate parent may include initiating requests for evaluation and reevaluation.

Special Education Process

For questions 7-13, write in the correct response. Select your response from terms listed at the end of section.

7. Written _____ must be obtained prior to the evaluation for initial placement of a child with disabilities or suspected of having a disability.
8. If a parent disagrees with the results of the school's evaluation, he or she may request an _____.
9. The school district must reevaluate individuals with disabilities at least every _____ years.
10. Individualized Education Program (IEP), a written statement specifying the special education program and related services that will be provided to a child with disabilities, must be reviewed at least _____.
11. For a child's initial placement in special education, the participants in the IEP conference must include: the child's teacher; a member of the evaluation team; a school representative; the child, when appropriate; appropriate others; and the _____.
12. The assessment plan must be signed within _____ days of the referral for evaluation of the child's needs for special education and related services.
13. For initial placement of a child into special education programs and related services, the school must obtain _____ from the parents.

five written consent verbal consent
three parental consent thirty
parents monthly annually
independent evaluation

Due Process and Procedural Safeguards

For questions 14-17, circle the letter of the correct answer. More than one letter may be circled.

14. Parents have certain rights regarding their child's educational records. These include:
    a. The right to inspect and review any of their child's educational records.
    b. The right to receive a copy of the child's educational records.
    c. The right to amend information contained within the records at any time by attaching a statement that clarifies an issue or states a disagreement.
    d. The right to request a records hearing.

Sample Training Post-Test

(continued)

15. Confidentiality assures that access to a student's educational records is provided to:
    a. The child's parents.
    b. Other relatives of the child (grandparents and aunts and uncles).
    c. Other individuals with written request or consent by the parents
    d. Authorized school personnel.

16. Parents have the right to receive written notification prior to their child's being tested or placed in a special education program. Included within this notification should be:
    a. The school district's policies on confidentiality.
    b. Due process rights
    c. A copy of the child's educational records.
    d. A description of the proposed evaluation process.
    e. Criteria for placement into special education programs.

17. Parents have the right to have their child with a disability to be educated with nondisabled children to the maximum extent appropriate. This is referred to as:
    a. The least restrictive environment.
    b. Special education.
    c. A free, appropriate public education.
    d. The individualized education program.

For questions 18-21, match the term to the definition. Write the letter of the term on the line provided.

a. Case conference
b. Administrative review
c. Mediation conference
d. Impartial due process hearing
e. State-level review

18. ____ A formal meeting held between the parents and the school with a representative from the LEA.

19. ____ An informal procedure usually used in the evaluation, placement, and periodic review process.

20. ____ A formal meeting with the special education administrator of the LEA or their representative.

21. ____ A formal proceeding conducted by an unbiased individual who reviews the information presented by the parents and the school and makes a decision about the child's educational status.

For questions 22-25, list four people or agencies to whom you might go for information regarding handicapped children. These may be local, regional, or state resources.

22. _____.
23. _____.
24. _____.
25. _____.

Adapted from the Ohio Department of Education

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Acknowledgment of Training Completion

Dear Surrogate Parent:

This letter is to certify your completion of the requirements prescribed by the_____ for Surrogate Parent Training.

(SELPA/LEA)

The Surrogate Parent Training Program included the following topics:

1. Federal and state laws, regulations, and rules;
2. Special education; and
3. The role and responsibilities of the surrogate parent in the special education process.

The information obtained from this training will enable you to adequately represent the interests of the child for whom you will be assigned. If you have questions about the content of your training program, please feel free to call the _____.

(SELPA/LEA)

Sincerely,

SELPA/LEA Coordinator

cc: Superintendent

Sample Surrogate Parent Appointment Form

Special Education Local Plan Area

I appoint_____to act as surrogate parent in matters involving the education of_____. This representative shall have parental authority in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the individualized education program, and in other matters relating to the provision of a free appropriate education for the individual.

This appointment shall remain in effect until any of the following occur:

1. The pupil's parent is located.
2. The placing agency representing a child who is a ward or dependent of the court appoints an educational representative.
3. The surrogate parent is unwilling or unable to carry out his or her responsibilities to the best interest of the child.
4. The surrogate parent is in a position with a conflict of interest in the above matter.

LEA Special Education Administrator_____

Telephone_____ Date_____

ACCEPTANCE OF APPOINTMENT

I, _____, hereby accept the above appointment. At such time as I am unable or unwilling to continue this appointment, I will notify the LEA Special Education Administrator designated above. I understand that I shall be held harmless by the State of California when acting in my official capacity except for acts or omissions which are found to have been wanton, reckless, or malicious.

I acknowledge that_____ has provided training regarding the laws applicable to surrogate parent responsibilities and the continuum of education program placements and opportunities available for individuals with disabilities.

I agree to maintain all student records and information in a confidential manner. Upon the termination of this agreement, I will return all such records to_____.

Surrogate parent (signature)_____ Date_____

Address_____

City_____ZIP_____ Telephone_____

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(Adapted with San Francisco Unified School District permission, 3/91.)

Sample Surrogate Parent Appointment Form

Surrogate Parent Agreement

This Surrogate Parent Agreement ("Agreement") is made and entered into effective _____, 1991 between the _____ ("District") and the _____ ("Surrogate Parent") with respect to the following recitals:

A. District desires to fulfill its obligation to appoint a Surrogate Parent to represent a special education student to insure that the student obtains a free and appropriate education under the Individuals with Disabilities Education Act (IDEA).

B. Surrogate Parent has expressed a desire and willingness to act as the Student's Surrogate Parent for educational purposes.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Appointment. District hereby appoints Surrogate Parent to act as the Surrogate Parent for _____(see attached list)_____ ("Student"), a student suspected of needing special education or a special education Student. Surrogate Parent agrees to act as the "Parent" and educational representative for Student in accordance with 34 CFR 300.514, Education Code 56050 and other applicable provisions of state and federal law.

2. Representative. Surrogate Parent represents that he or she has no interest that conflicts with the interest of the Student and that Surrogate Parent is not an employee of any public or private agency involved in providing education or related services to Student. Surrogate Parent further agrees to act on behalf of Student and to advocate for the education of Student in all ways necessary to insure that Student receives a free and appropriate public education. Surrogate Parent also agrees to communicate with Student and other appropriate individuals or agencies to the extent necessary to insure that Student receives a free and appropriate public education. If at any time during the term of this Agreement Surrogate Parent develops an interest which may conflict with the interests of the student or becomes an employee of an agency involved in providing education to Student, Surrogate Parent agrees to immediately notify District.

3. Training. Surrogate Parent acknowledges that SELPA/or Local Educational Agency has provided training regarding the laws applicable to Surrogate Parent responsibilities and the continuum of program placements and opportunities available in Fresno County for Special Education Students.

4. Term. District hereby appoints Surrogate Parent for a term of one (1) year.

5. Termination. Either party may terminate this Agreement upon thirty (30) days written notice to the other party.

6. No Assignment. Surrogate Parent agrees that this Agreement shall be a personal contract and shall not be assignable, in whole or in part, in any manner whatsoever.

7. Student Records. Surrogate Parent agrees to maintain all records of Student reviewed or maintained by Surrogate Parent in a confidential manner and agrees that, upon the termination of this Agreement, all such records shall be returned to District.

IN WITNESS WHEREOF, the parties have executed this Agreement effective on the date set forth above.

_____ _____

Surrogate Parent Date

_____ _____

District Administrator Date

Adapted from Fresno County SELPA

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Sample Surrogate Parent Appointment Form

Surrogate Parent Evaluation

Name of Educational Representative _____
Name of Student _____
Student's Date of Birth _____
Date of last IEP _____ School _____

Evaluation of Educational Representative

____	Yes	____	No	responded to all school correspondence
____	Yes	____	No	visited child in program each semester
____	Yes	____	No	actively participated in the IEP process
____	Yes	____	No	maintained confidentiality requirements
____	Yes	____	No	met and conferred with all teachers and related staff working with student
____	Yes	____	No	performed duties with adequate knowledge and skills

Comments:

_____
_____
_____
_____

Reappointment Recommended: ____ Yes ____ No.

Completed By _____
Position _____
Date _____

Adapted from Department of Special Education, San Francisco Unified School District

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Surrogate Parent Contact Log

Student's Name_____/_____/_____
Last First Middle DOB Program

Surrogate Parent's Name_____

Address_____/_____
Street City Zip Phone

Student's School_____Grade_____

Cumulative Information

Date	Either summarize pertinent information on this form or indicate enclosed information. Always date and initial entries.	Initials

Adapted from Fresno County SELPA

Sample Interagency Communications

All County Letter Referring to AB 1528

All County Letter No. 91-25

To: All County Welfare Directors

All County Counsels

All County Probation Officers

All Juvenile Court Judges

RE: Assembly Bill 1528 (Chapter 182, Statutes of 1990)

The purpose of this All County Letter (ACL) is to inform counties of the provisions of Assembly Bill (AB) 1528 (Chapter 182, Statutes of 1990), which became effective January 1, 1991.

Assembly Bill 1528, which was sponsored by the California State Department of Education, Commission on Special Education, amended Sections 56028, 56050, 56156, and 56200 of the Education Code; added Section 7579.5 to the Government Code; and amended Sections 245.5 and 361 of the Welfare and Institutions Code regarding the appointment of surrogate parents for dependents or wards of the court who require specified special education.

Most of those amendments address the responsibilities of the Local Educational Agency (LEA), in the provision of special education for children with identified exceptional educational needs who are dependents or wards of the court. The amendments identify the LEA (e.g., district, county office of education, Special Education Local Plan Area (SELPA) as the agency responsible for appointing surrogate parents under prescribed conditions; make the definition of "parent" consistent in State and federal law; identify the activities in which the surrogate parent has a role; define the responsibilities of those involved in the provision of special education; and describe the required information to be provided in each local plan and multidistrict plan.

While the amendments described above basically pertain to the responsibilities of the State Department of Education, SELPAs and LEAs, two of the amendments in AB 1528 directly affect county welfare and probation department activities and responsibilities.

One of these amendments is the requirement that the individual appointed to act as a surrogate parent for a child with identified exceptional educational needs may not be an employee of a public agency which is involved in the education or care of the child (Section 7579.5(f) of the Government Code). This precludes social workers and probation officers from acting in the capacity of a surrogate parent.

This is a change from the information provided counties by the State Department of Social Services via ACL 86-48 (June 6, 1986). Page three, paragraph one of ACL 86-48 states:

"When an IEP team meeting is conducted for a court dependent, absent any specific court order to the contrary, the agency which has been assigned care, custody and control by the court is responsible for functioning as the child's legally responsible agent for educational purposes. This responsibility includes consenting in writing to assessments and the content of the IEP. The IEP cannot be implemented without the CWD's consent. This responsibility cannot be delegated. (However, when reunification is anticipated, the child's parents should also be encouraged to participate in the IEP process.)"

These instructions, which were based on existing juvenile court dependency statute,

All County Letter Referring to AB 1528

(continued)

provide for county staff, including social workers and probation officers, to actively participate in the planning, development and authorization of "individualized education programs" (IEPs) for children with identified exceptional educational needs, when the child had no parent/guardian, or when the parent's rights to make decisions regarding the child's education had been removed.

Enactment of AB 1528 brings California into compliance with federal law (Title 34, CFR 300.514(d)) which requires that a person appointed as surrogate parent may not be an employee of a public agency which is involved in the education or care of the child. (This law, as interpreted by the Federal Government, specifically precludes social workers and probation officers from acting as the child's educational representative.)

Additionally, the amendment to Section 361 of the Welfare and Institutions Code enacted as a result of AB 1528 requires the juvenile court to specifically address any limitation of the right of the parent or guardian of a child with identified exceptional educational needs to make educational decisions for the child. AB 1528 authorizes the juvenile court to specifically address education in its orders about care, supervision, custody, conduct, maintenance, support and medical treatment.

While the new law precludes certain employees of public agencies from acting as surrogate parents, those employers should continue to provide information to the juvenile court which would be useful to help the court address the rights of parents to make educational decisions for the child. Counties should also continue to provide information to local education agencies, county offices of education and SELPAs as necessary to ensure appropriate educational services for wards and dependents of the court.

In summary, as a result of the enactment of AB 1528, certain public employees (i.e., social workers, probation officers) will no longer be responsible for or permitted to perform the activities of surrogate parent regarding education issues. These activities will be performed by educationally appointed surrogate parents or by the child's parent(s)/guardian(s) who retain authority to make educational decisions for his/her child. Additionally, the juvenile court is now responsible for specifically addressing the rights of parents/guardians with regard to education issues for children with identified exceptional education needs.

Implementation of the new law is being coordinated by the State Department of Education. A series of workshops addressing the key aspects of AB 1528 is planned for the first half of 1991. The State Department of Education will invite staff from local education agencies, county welfare departments, county probation offices, county departments of mental health, representatives from the local juvenile system and group home providers to attend the workshops.

If you have any questions regarding the information provided in this ACL, contact your Child Welfare Services Operations consultant at (916) 445-0623.

LOREN D. SUTER

Deputy Director

cc: County Welfare Directors Association

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San Benito/Santa Cruz Court Protocol to Determine Removal of Parental Educational Rights

San Benito/Santa Cruz Counties
Special Education Local Plan Area
9055D Soquel Drive
Aptos, CA 95003

To: Stan Peterlin, Deputy Chief Probation Officer
Marilyn Coppola, Deputy Director, Dept. of Social Services
Gary Ernst, Director, Mental Health Services

From: Linda Bourgaize, Director

Subject: Surrogate Parent Protocol

Date: February 20, 1991

Pursuant to our meeting regarding your input and verbal agreement regarding the above protocol, I am reducing the agreement to final written form. Should there exist problems with this protocol, please do not hesitate to call me.

When an investigating social worker/probation officer determines that a minor is to become a ward of the court and no parent/legal guardian is available or appropriate to sign/participate in the special educational process, that investigating officer should request that the court include in the order for wardship, "Pursuant to Section 361 W&I, the court finds that the parent/legal guardian is not available or appropriate to exercise responsibility for educational purposes and thereby removes such responsibility."

In those cases where there is a parent/legal guardian available and responsible for purposes of education, it is important for the social worker/probation officer to determine the current address and phone number of such parent/legal guardian. This information must be provided to the SELPA in which the pupil resides.

In cases where the ward is referred or eligible for special education, it is incumbent upon the social worker/probation officer to complete form 24 (attached) indicating the name, current address and phone number of parent/legal guardian or indicate that the court has removed that responsibility from the parent/legal guardian.

The SELPA office or designated Local Education Agency is responsible to appoint surrogate parents, when appropriate, to represent the pupil's special education interests.

The codes referred to are specifically related to "special education" students, who have been placed. In cases where the student is placed in an institution or group home, it is inappropriate for the placement worker or group home provider to represent the minor for educational purposes.

In the case of relative or foster-home placement, the relative or foster-home parent may be appointed by education to represent the minor as a surrogate parent, provided no conflict of interest exists.

Note: A ward who has reached the age of majority (age 18) in California shall not be represented by a surrogate parent. If that ward/dependent has been declared incompetent by a court of law, and a conservator has been appointed, that person will represent the ward/dependent.

Court Orders Regarding Confidentiality of Records
Santa Cruz County

SUPERIOR COURT, STATE OF CALIFORNIA, COUNTY OF SANTA CRUZ

SITTING AS A JUVENILE COURT

ORDER FOR RELEASE OF INFORMATION

(AMENDS ORDER DATED 4-3-90)

Pursuant to the duty imposed upon the Court by the case of TNG. v. Superior Court, 4 Cal. 3d 767, the Juvenile Court of Santa Cruz County hereby establishes the following Juvenile Court rules:

A. Law enforcement and probation agencies in Santa Cruz County, for governmental purposes, may release any information in their files regarding juvenile to the following:

(1) The minor, the minor's parents (or guardians), or the minor's attorneys;

(2) California Bureau of Investigation and Information;

(3) All California school systems;

(4) All California Probation Departments;

(5) All California public welfare agencies;

(6) All California District Attorney's Offices;

(7) California Youth Authority;

(8) Military services;

(9) Federal law enforcement agencies;

(10) Any California court pursuant to subpoena from such court;

(12) Out of State probation and parole Department

(13) Community referral agencies, whether in or out of California, provided the forwarding law enforcement or probation agency has first obtained the written consent of the parent or other person having legal custody of the minor;

(14) The Juvenile Court Judge further authorizes the Probation Department to include adjudicated 300, 601 and 602 cases in the social history provided by the Probation Department in criminal matters. This inclusion of adjudicated matters in social history will assist the criminal court in making proper rehabilitation orders for the defendant. Juvenile arrests and detention are excluded from the Adult Probation Officer's report unless there was a Court adjudication of the matter. However, informal juvenile probation cases (654 W&I Code) may be included in the adult court reports as long as the guilt of the juvenile is clearly stated;

(15) Youth Services to facilitate the juvenile first time offender diversion program;

(16) Triad Alcohol Program for juveniles referred there for counseling and education;

(17) Juvenile placement programs selected by the Probation Department when placement has been ordered by the court;

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Court Orders Regarding Confidentiality of Records
Santa Cruz County

(continued)

(18) The Santa Cruz County Mental Health Department for minors in custody who have mental problems or those being screened for mental health services.

B. All such information received by an authorized recipient listed in Clause A must be kept confidential by that recipient, and must not be further released by it except to one or more of the listed authorized recipients.

C. The California Bureau of Identification and Information is directed not to release any record of detention which has been disclosed to it by authority of these rules, unless there is also included in such release full information concerning the disposition which followed such detention.

D. A copy of this order shall be sent forthwith to the following:

(1) All law enforcement agencies in Santa Cruz County;
(2) California Bureau of Identification and Information;
(3) All school systems in the County of Santa Cruz;
(4) Santa Cruz County Probation Department;
(5) Santa Cruz County Human Resources Agency;
(6) Santa Cruz County District Attorney's Office;
(7) California Youth Authority;
(8) Santa Cruz County Mental Health Department.

E. Concurrently with the release of any information by law enforcement or probation agency in Santa Cruz County to any authorized recipient not listed in Clause D above, such law enforcement agency is required to furnish the recipient with a copy of Clauses A and B of this order.

F. Request by any law enforcement or probation agency to disseminate any information in its files to any person or agency not listed in Clause A will be considered by the Juvenile Court on an individual basis, in accordance with the standards set forth in TNG. v. Superior Court, supra.

Dated: _____ _____

Judge of the Juvenile Court

Court Orders Regarding Confidentiality of Records
Los Angeles County

Date: February 28, 1991

To: All Superior Court Judges, Commissioners, and Juvenile Court Referees;
All Police Chiefs, Los Angeles County
Los Angeles County Sheriff
Bureau of Criminal Identification and Investigation
Los Angeles County Chief Probation Officer
Director of Department of Children's Services
Los Angeles County District Attorney
Los Angeles County Public Defender
Los Angeles County Director of Health Services
Los Angeles County Director of Mental Health Services
Los Angeles County Director of Public Social Services
California Youth Authority
California Department of Corrections
California Department of Motor Vehicles

From: Jaime R. Corral, Presiding Judge Juvenile Court

Subject: Confidentiality Policy

Preface

Over the past years, the number of petitions to inspect or copy juvenile records has dramatically increased. Some of these petitions were from persons or agencies who were generally not required to utilize the petitioning process. By issuing the following confidentiality policy which specifies the persons and agencies entitled to access, and which delineates the various procedures other persons and agencies must follow for access to juvenile records, the number of unnecessary petitions should be reduced. However, where a petition is required, such petition must be filed only with the Juvenile Court Presiding Judge.

Effective Date

This policy supersedes all previously issued policies on the confidentiality of juvenile court records and documents and is effective forthwith.

I. Purpose of the Confidentiality Policy

Section 827 of the Welfare and Institutions Code establishes the confidentiality of juvenile records. The Juvenile Court has exclusive jurisdiction over juvenile records and documents as well as the responsibility to maintain their confidentiality. In accordance with the requirements of case law and Sections 827 and 828 of the Welfare and Institutions Code, the purpose of the confidentiality policy is to protect the interests of minors and their families in the confidentiality of any records and documents concerning minors who are involved in the justice system, and to provide a reasonable method for the release of these records and documents.

II. Definition of Juvenile Records

Juvenile records as used in this policy is defined as including the following:

A. Any document or record filed in any juvenile court proceeding;

B. Any document or record made available to the probation officer or children's services worker in preparing a report;

C. Any agency document or record relating to juvenile contacts and arrests, even if juvenile court proceedings were not instituted. This includes police reports relating to mere detentions of minors and records relating to minors who were merely subjects of investigation, but excludes information regarding juvenile witnesses unless detained as possible suspects.

1. In addition to police reports, the following items fall within the definition of juvenile records where they involve a minor who is a ward or dependent of the court, or who is a

Court Orders Regarding Confidentiality of Records
Los Angeles County *(continued)*

subject of an investigation which may result in an action to bring the minor under the provisions of Welfare and Institutions Code Sections 300, 601 or 602:

a. Photographs;

b. Polygraph tapes; and

c. Tapes or printouts of radio calls.

III. Application of the Confidentiality Policy

A. Juvenile records cannot be subpoenaed.

B. Unless otherwise confidential,* juvenile records may be released to the following persons without a court order.

1. Authorized juvenile court personnel, including bench officers and county clerk staff, upon proof of identification;

2. District Attorneys, upon proof of identification;

3. The subject minor or attorney for subject minor, upon proof of identification; and,

4. The subject minor's parent or guardian, or attorney for said parent or guardian, upon proof of identification.

5. * Exceptions:

a. Medical records and psychological evaluations, including Evidence Code 730 evaluations, contained in juvenile files are strictly confidential. District Attorneys, the subject minor, parents/guardians, and their attorneys must obtain a specific court order for the release of medical records by petitioning to inspect or copy such records.

b In juvenile records such as police reports which name more than one minor suspect, District Attorneys, the subject minor, parent/guardian, or their attorneys must petition the court for release of the report unless all the named minors are siblings. This also applies where the report names a minor victim who is a ward or dependent of the court, or who is a subject of an investigation which may result in an action to bring the minor under the provisions of Welfare and Institutions Code Sections 300, 601 or 602.

IV. Attorney Access

If the minor's attorney or the attorney for the minor's parents or guardian seeks access to the juvenile record is not designated as attorney of record in the court file, the attorney must file a "Declaration of Attorney Representation" in order to gain access to juvenile records without a court order.

A. Exceptions:

1. Where the court has ordered that the minor's whereabouts are confidential from the minor's parents, the parents or their attorneys must seek a court order by petitioning the court to inspect or copy juvenile records.

2. As to dependency records which pertain to more than one minor who are not siblings and where the attorney represents only one of the minors, the attorney must seek a court order by petitioning the court to inspect or copy juvenile records.

V. Access by Agencies or Their Duly Authorized Representatives

A. Where access to juvenile records is necessary and relevant in connection with or in the course of a criminal investigation or proceeding brought to declare a person a dependent child or ward of the juvenile court, the following agencies or their duly authorized representative may obtain such records or documents upon the filing of a "Declaration in Support of Access to Juvenile Records" under penalty of perjury setting forth said need:

1. City Attorney;

2. Police or Sheriff's Department;

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Court Orders Regarding Confidentiality of Records
Los Angeles County *(continued)*

3. County Counsel;
4. County Probation;
5. County Welfare; and
6. Children's Services Departments.

B. The court recognizes that certain individuals and agencies require access to juvenile records for the purpose of accomplishing the legitimate goals of the juvenile justice system. Such goals include the need to adequately evaluate the background of an individual minor or of the minor's family in order to develop a treatment plan or assess the effectiveness of a treatment plan, or the need to audit any part of the juvenile justice system to evaluate its operation. To that end, the following persons or agencies through their duly authorized representatives, may obtain such juvenile records upon the filing of a "Declaration in Support of Access to Juvenile Records" under penalty of perjury setting forth said need:

1. Child Advocates Office;
2. Conciliation Court;
3. Department of Mental Health;
4. Department of Motor Vehicles, for licensing;
5. Federal, State, County & City Auditors, for auditing purposes;
6. Interstate Compact on Juveniles;
7. Public Guardian's Office;
8. United States Probation;
9. California Youth Authority;
10. State Department of Corrections; and,
11. Indian Tribes.

VI. Release of Information Among Law Enforcement Agencies

A. Welfare and Institutions Code Section 828:

Pursuant to Section 828 of the Welfare and Institutions Code, law enforcement agencies, such as police departments, sheriff's departments and probation departments, may also release certain information that it has gathered to another law enforcement agency, including school district police or security department, where the information is necessary for the purposes of official disposition of a case or where a minor has escaped from custody.

B. Welfare and Institutions Code Section 828.1:

In addition, pursuant to Section 828.1, a school district police or security department may provide written notice to a school superintendent that a court has found a minor student to have illegally used, sold or possessed a controlled substance or to have committed certain crimes. This information may be released to any teacher, counselor or administrator with direct supervisory or disciplinary responsibility over the minor, after consultation with the school principal, where necessary to work with students in an appropriate fashion or for the protection of vulnerable school staff and other students.

VII Special Rule for Traffic Accident Reports Involving Minors

A. Any traffic accident report involving a minor may be released by a police agency, without a court order, to the following upon proper showing of identity or representation:

1. Parties involved in the accident;
2. Attorneys of the parties;
3. Insurance agent of party involved in the accident; and,
4. Any state or local engineering department for use in the normal scope of such department's duties.

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Court Orders Regarding Confidentiality of Records

Los Angeles County *(continued)*

B. Traffic accident reports in which the minor is suspected of DUI or drugs, as well as traffic accident reports involving minors cited to appear before a probation officer or in court are also included.

1. Exception: if other minors who are not siblings are involved in the traffic accident, and who are wards or dependents of the court, or who are subjects of investigations which may result in an action to bring the minors under the provisions of Welfare and Institutions Code Sections 300, 601 or 602, a court order is required.

2. Important Note: Traffic accident reports must be severed from the arrest reports. Arrest reports are not considered part of the traffic accident report and must therefore be obtained by court order, in accordance with the general confidentiality policies herein.

VIII. Petition for Inspection or Copying of Juvenile Records Required in All Other Cases

A. No release without court order. Any person seeking to inspect or copy juvenile records in circumstances not otherwise specifically covered herein must file a "Petition to Inspect Juvenile Files and Records" or a "Petition to Obtain Copies of Juvenile Files and Records" with the Presiding Judge of the Juvenile Court at the following address:

Department 200, Room 12A

Criminal Courts Building

210 West Temple Street

Los Angeles, CA 90012

B. Examples

1. Victims, victims' assistance agencies;
2. Plaintiffs or defendants in law suits involving minors or their attorneys; and
3. Public and Private Schools, School Districts, unless access is sought pursuant to WIC 828.1;
4. School District Police or Security Department, unless access is sought pursuant to WIC 828;
5. Therapists/Counselors;
6. Insurance companies; and
7. Serious habitual offender (SHO) programs.

a. Exceptions: the following SHO programs have pre-approved authorization from the Juvenile Court for access:

City of Rialto SHO Program;

City of Chino SHO Program;

Inglewood Police Department SHO Program; and

Pomona Police Department SHO Program.

IX. Access Requiring Minor's Written Consent of Authorization

A. The following agencies must attach the minor's written consent of authorization with the Petition to Inspect or Copy Juvenile Records:

1. Armed Services;
2. Immigration and Naturalization Services;
3. Federal, State or Local Licensing Agencies (e.g., Department of Insurance, Department of Real Estate); and
4. Prospective Employers— even if prospective employer is a police agency.

X. Procedural Order Requiring Verification of Attorney as Counsel of Record

Court Orders Regarding Confidentiality of Records
Los Angeles County *(continued)*

A. Application

The procedural order requiring verification of attorney as counsel of record, issued in November 1990, is applicable to all petitioning attorneys.

1. Exception: Where access to juvenile records is necessary for dependency or delinquency proceedings, county counsel, district attorneys, city attorneys, attorneys for subject minors and attorneys for subject minor's parents/guardians need not comply with this procedural order. Said attorneys need only show proof of identification or file certain declarations as provided in Sections III, IV and V of the confidentiality policy herein.

JRC

Attachments:

A. Declaration of Attorney Representation
B. Declaration in Support of Access to Juvenile Records
C. Petition to Inspect Juvenile Files and Records
D. Petition to Obtain Copies of Juvenile Files and Records
E. Petition to Obtain Copy of Police Report
F. Procedural Order Requiring Verification of Attorney as Counsel of Record.

Attachment A.

Telephone:

Relationship to Minor:

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

JUVENILE COURT

IN THE MATTER OF

A Minor

JUVENILE CASE NO.

Declaration of Attorney Representation

NOTE: This declaration must be completed and filed if the attorney seeking access to the juvenile record is not designated as attorney of record in the court file.

The undersigned declares as follows:

1. I am an attorney, duly licensed to practice before the California courts.
2. I represent:

____ the minor

____ the minor's parent

____ the minor's guardian

and access to the juvenile records of the minor is necessary to properly represent my client.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: _____ at _____

_____
Signature

_____
California State Bar Number

Court Orders Regarding Confidentiality of Records

Los Angeles County *(continued)*

Attachment B.

Telephone:

Relationship to Minor:

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

JUVENILE COURT

IN THE MATTER OF

A Minor

JUVENILE CASE NO.

Declaration in Support of Access to Juvenile Records (WIC 827)

The undersigned declares as follows:

Declarant is a duly authorized representative of the following agency:

Section A:

To Be Checked by Prosecutorial Agencies, Law Enforcement Agencies and Child Protective Agencies

____ Access to juvenile records in the within matter is necessary and relevant in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

Section B:

All others must complete the following:

____Access to juvenile records in the within matter is necessary to accomplish the legitimate goals of the juvenile justice system, as follows:

____ Evaluate minor or family background

____ Evaluate treatment plan

____ Audit juvenile justice system

____ Other

Any records or reports or information relating to the contents of these records or reports will not be disseminated to any persons or agencies not authorized to receive documents under section 827 Welfare and Institutions Code, nor will any records or reports or portions thereof or any information relating to the contents, be made attachments to any other documents without prior approval of the Presiding Judge of the Juvenile Court, unless used in connection with a criminal investigation or a proceeding to declare a minor a ward or dependent child of the juvenile court.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: _____ at _____

_____

Signature

Court Orders Regarding Confidentiality of Records
Los Angeles County *(continued)*

Attachment C.

Telephone:

Relationship to Minor:

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

JUVENILE COURT

IN THE MATTER OF

A Minor

Date of Birth: _____

JUVENILE CASE NO.

Petition to Inspect Juvenile Files and Records (WIC 827)

To the Presiding Judge of the Los Angeles Juvenile Court:

Petitioner requests permission to inspect the above captioned Juvenile files and records.

The files and records which Petitioner seeks to inspect are confidential under Section 827 of the Welfare and Institutions Code as they involve a minor. However, good cause does exist for the release of said Report(s) to Petitioner as follows:

Petitioner's relationship to the Minor is as follows:

I declare under penalty of perjury that the foregoing is true and correct.

Dated: _____ _____

Signature of Petitioner

ORDER

The Petition to Inspect is:

_____ Granted. _____ Denied.

Dated: _____ _____

Presiding Judge of Juvenile Court

Attachment D.

Telephone:

Relationship to Minor:

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

JUVENILE COURT

IN THE MATTER OF

A Minor

Date of Birth: _____

JUVENILE CASE NO.

Petition to Obtain Copies of Juvenile Files and Records (WIC 827)

To the Presiding Judge of the Los Angeles Juvenile Court:

Petitioner requests permission to obtain a copies of the following documents contained within the Juvenile files and records in the above-entitled matter. The documents which Petitioner seeks are confidential under Section 827 of the Welfare and Institutions Code as they involve a minor. However, good cause does exist

Court Orders Regarding Confidentiality of Records
Los Angeles County *(continued)*

for the release for the Petitioner to obtain copies of the documents as follows:

	Document	Reason for Request
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

I declare under penalty of perjury that the foregoing is true and correct.

Dated: _____ _____

Signature of Petitioner

ORDER

The Petition to Copy is: _____ Granted. _____ Denied.

The Court further orders that the records produced be limited to use in _____, and except as necessary at trial, not be disclosed to anyone other than the parties and their counsel.
UPON CONCLUSION OF THE TRIAL, THE RECORDS SHALL BE SEALED.

Dated: _____ _____

Presiding Judge of Juvenile Court

Attachment E.

Telephone:

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

JUVENILE COURT

Name and Address of Arresting Agency

Petition to Obtain Copy of Police Report

No.

To the Presiding Judge of the Los Angeles Juvenile Court:

Petitioner requests permission to obtain a copy of the above captioned Police Report(s). The Report(s) involve a minor and are confidential under Section 827 of the Welfare and Institutions Code. However, good cause does exist for the release of said Report(s) to Petitioner as follows:

I declare under penalty of perjury that the foregoing is true and correct.

Dated: _____ _____

Signature of Petitioner

ORDER

The Petition to Obtain Report(s) is: _____ Granted. _____ Denied.

Dated: _____ _____

Presiding Judge of Juvenile Court

Petition to Obtain Police Report

Court Orders Regarding Confidentiality of Records
Los Angeles County *(continued)*

Attachment F.

Procedural Order Requiring Verification of Attorney as Counsel of Record.

To: Petitioning Attorneys

From: Presiding Judge Jaime R. Corral

Subject: Verification of Attorney as Counsel of Record

The following procedural order applies to counsel who submit requests to inspect or copy juvenile records under Welfare and Institutions Code Section 827.

1. To each "Petition to Inspect or Copy Juvenile Records," a petitioning attorney must attach a separate declaration signed under penalty of perjury pursuant to Code of Civil Procedure Section 2015.5. The declaration must state that he/she is the attorney of record in a pending action or potential action which relates to the Petition.

2. The following requirement also must be met in the declaration:

a. Petitioning attorney must specify the type of action for which he/she is designated as counsel of record, and must specify that access to juvenile records is necessary and relevant in connection with the action.

b. Petitioning attorney must identify the individual or agency whom he/she represents in the action.

c. Petitioning attorney must attach to the declaration evidence of designation as counsel of record in the action. Acceptable forms of evidence include:

Minute order or other court document identifying the petitioning attorney as counsel of record.

Copy of a complaint filed in court identifying the petitioning attorney as counsel of record.

Signed copy of a valid retainer agreement designating the petitioning attorney as counsel of record.

Any other document which provides sufficient proof that the petitioning attorney is counsel of record.

This order is effective November 14, 1990.

_____

Jaime R. Corral

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Court Orders Regarding Confidentiality of Records
Fresno County

Standing Order Pursuant to Sections 827 & 828 of the Welfare and Institutions Code Regarding the Fresno County Multiple Disciplinary Assessment Team

The Multiple Disciplinary Assessment Team, hereinafter MDAT, has been established under the direction of the Fresno County Superior Court, Juvenile Department. MDAT is multidisciplinary, comprised of professionals knowledgeable about children who are at risk (Appendix A). The purpose of MDAT is to improve the provision of services to at risk children through interagency coordination and case management.

Much of the information which MDAT shares and exchanges is subject to State and Federal rules of confidentiality. Therefore, pursuant to W&I §827 and 828 IT IS ORDERED:

1. To the extent exchange, sharing and/or release of confidential information, held by any of the individual members or agencies represented on MDAT is subject to the order of the Juvenile Court, the Court does hereby authorize the exchange, sharing and release of this information from the agencies listed in Attachment "A" upon the following terms and conditions:

   (a) Such information may be released by any school or school district, the Fresno County Department of Health, the Fresno County Department of Mental Health, Fresno County Office of Education, Fresno Unified School District, Clovis Unified School District, Law Enforcement, Unified School Districts, Fresno County Department of

   Social Services, and the Fresno County Probation Department, to MDAT or to any person or persons designated by MDAT to receive such information;

   (b) All members of the Fresno County MDAT are hereby authorized to share such information as they may have with those who subsequently, as part of the Court's dispositional plan, render services to the subject Minor;

   (c) All discussions and consultations are to be confidential, and no member of MDAT or any person or agency receiving information pursuant to this Order, shall, in any way, directly or indirectly release such information to non-team members except as provided in this Order;

   (d) One person in MDAT shall be designated to retain a confidential log, whereby cases presented will be given an identifying code. The confidential log, and the information contained therein, shall not be released except as provided for in this Order without further order of the Court.

2. Prior to any agency or person, releasing information to MDAT pursuant to this order, said agency or person shall determine that in fact this person is a member or authorized representative of MDAT.

3. A copy of this Order shall be forwarded to each of the following agencies by First Class Mail by the Clerk of the Juvenile Court:

   A. The Presiding Judges of the Fresno County Superior, Municipal and

Justice Courts.

B. All law enforcement agencies in Fresno County.
C. The Fresno County Probation Department.
D. The Fresno County District Attorney.
E. The Fresno County Public Defender.
F. The Fresno County Department of Social Services.
G. The Fresno County Health Department.
H. The California Youth Authority.
I. The Fresno County Counsel's Office.
J. The Fresno City Attorney's Office.
K. Fresno Unified School District.
L. Fresno County Department of Education.
M. Clovis Unified School District.
N. Fresno County Public Guardian.

4. The purpose of this order is to authorize the release of information, and shall not be deemed to be an order requiring the release of such information.

Dated: _____ _____

GARY S. AUSTIN
Presiding Judge

APPENDIX A

Fresno County MDAT members may include, but are not limited to, the following agencies or persons:

1. Fresno County Department of Social Services;
2. Fresno Unified School District;
3. Fresno County Department of Education;
4. Fresno County Health Department;
5. Clovis Unified School District;
6. Fresno County Probation Department;
7. Fresno County Department of Mental Health;
8. Law Enforcement;
9. Additional professionals who may be invited to attend.

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Regional Center Guidelines for Notifying SELPA Administrators Prior to Placement

Date: June 30, 1986

To: County Directors of Special Education
Special Education Local Plan Area Administrators

From: Shirley Thornton, Ed.D.
Associate Superintendent, Director
Special Education Division

Subject: Guidelines for Placing Handicapped Children in Residential Facilities

During December 1984 and the first few months of 1985, a Northern and Southern Task Force worked to develop guidelines concerning activities that would occur prior to placing a pupil who was handicapped in a residential facility. The task force was comprised of operators of licensed residential facilities and the local education agencies' staff person assigned to Licensed Children's Institutions and nonpublic nonsectarian school placements.

The Department of Developmental Services took the proposed guidelines and placed them in a document entitled "Guidelines for Notifying the Special Education Local Plan Area Administrators Prior to Placing School Age Individuals in Residential Facility. These guidelines were disseminated with the Emergency Regulations for public input.

The guidelines contain certain activities which the SELPA Directors must do in response to the Regional Center's notification. These are the activities that were recommended by the Northern and Southern Task Force members and list the information that should be given to the placing agency pursuant to Government Code 7579.

Attached are the guidelines that were issued by the Department of Development Services in their May 5, 1986 RCO-86-42.

Date: May 5, 1986

To: Regional Center Directors

Subject: Guidelines for Notifying the Special Education Local Plan Area Administrators Prior to Placing School Age Individuals in a Residential Facility

Approved: Paul D. Carleton, Deputy Director

Purpose: Action

Pursuant to Chapter 1747, Statutes of 1984 (AB 3632), amended by Chapter 1274, Statutes of 1985 (AB 882), the regional centers are required to notify the special education local plan area (SELPA) administrator prior to placing a school age individual in a residential facility.

The attached guidelines, which satisfy the notification requirement, are to be implemented by the regional centers effective July 1, 1986. Be aware that the amount of relevant information required as part of the notification will vary in certain circumstances. For example, if your client is being placed in another residential facility within the SELPA, all seven relevant information items would not have to be transmitted to the SELPA administrator.

Regional Center Guidelines for Notifying SELPA Administrators Prior to Placement

(continued)

Attachment

The Guidelines For Notifying the Special Education Local Plan Area Administrators Prior to Placement

Pursuant to Chapter 1747, Statutes of 1984 (AB 3632), amended by Chapter 1274, Statutes of 1985 (AB 882), close coordination is required between all state agencies involved in providing education, related services, or out-of-home placement to handicapped pupils.

One of the goals of AB 3632/882 is to ensure that when a person with developmental disabilities is placed out of home for residential or educational reasons, that the person will be able to receive an education program that is appropriate for meeting the person's educational needs. To accomplish this goal, regional centers shall provide written notification to the SELPA administrator ten days, or as early as is practicable, prior to placing a school age person with developmental disabilities in a residential facility. The notification should include all the relevant information that the regional center has in the person's case records, such as:

1. The name of the last school attended by the person, the contact person at that school, and available education records, including individualized education program.

2. A copy or summary of the most recent psychological and medical records relevant to educational planning which are maintained by the regional center.

3. When applicable, a notification of the person's history of being dangerous to self and others.

4. The name, address, and telephone number of the individual with designated responsibility to represent the person in educational matters. The designated individual must be other than the care provider if the provider operates, is affiliated with, or controls a nonpublic school.

5. The name of the administrator/designee, address, telephone number, and licensing status of the residential placement under consideration for the person.

6. A description of any special considerations related to transporting the person.

7. Authorized signed consents to release and receive information relevant to individualized educational program planning and individual program planning.

The SELPA administrator, upon receipt of a notice from a regional center, should communicate with the regional center within seven calendar days stating the range of program alternatives available to individuals with exceptional needs within the SELPA. When the regional center makes an emergency placement to protect the physical, mental health, or safety of the person, the regional center shall furnish the SELPA administrator the required information within three calendar days after the placement.

When no appropriate special education placements exist within the SELPA, and the placement options are home instruction or in a public or nonpublic facility located in another SELPA, the placing agency should make every effort to locate another residential placement served by a SELPA which can implement the person's individualized education program. When the regional center places a person in a residential facility which has an on-ground, certified, nonpublic, nonsectarian school, the person may continue to attend the education program only if the SELPA's individualized education program team, in which the residential facility is located, has determined that:

a. There is no appropriate public education program in the community, and

b. The on-ground program is appropriate and can implement the person's individualized education program.

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Codes and Regulations

Federal Surrogate Parent Mandates

20 U.S.C. § 1415(b)(1)(8) Procedural safeguards

(a) Establishment and maintenance

Any State educational agency, any local educational agency and any intermediate educational unit which receives assistance under this subchapter shall establish and maintain procedures in accordance with subsection (b) through subsection (e) of this section to assure that handicapped children and their parents or guardians are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies and units.

(b) Required procedures; hearing

(1) The procedures required by this section shall include, but shall not be limited to —

(B) procedures to protect the rights of the child whenever the parents or guardian of the child are not known, unavailable, or the child is a ward of the state, including the assignment of an individual (who shall not be an employee of the State educational agency, local educational agency, or intermediate educational unit involved in the education or care of the child) to act as a surrogate for the parents or guardian;

Federal Regulation Implementing Federal Statute

34 C.F.R. § 300.514 Surrogate parents

(a) General. Each public agency shall insure that the rights of a child are protected when:

(1) No parent (as defined in § 300.10) can be identified;

(2) The public agency, after reasonable efforts, cannot discover the whereabouts of a parent; or

(3) The child is a ward of the State under the laws of that state.

(b) Duty of public agency. The duty of a public agency under paragraph (a) of this section includes the assignment of an individual to act as a surrogate for the parents. This must include a method (1) for determining whether a child needs a surrogate parent, and (2) for assigning a surrogate parent to the child.

(c) Criteria for selection of surrogates.

(1) The public agency may select a surrogate parent in any way permitted under State law.

(2) Public agencies shall insure that a person selected as a surrogate:

(i) Has no interest that conflicts with the interest of the child he or she represents; and

(ii) Has knowledge and skills, that insure adequate representation of the child

(d) Non-employee requirement; compensation.

(1) A person assigned as a surrogate may not be an employee of a public agency which is involved in the education or care of the child.

(2) A person who otherwise qualifies to be a surrogate parent under paragraphs (c) and (d)(1) of this section, is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

(e) Responsibilities. The surrogate parent may represent the child in all matters relating to:

(1) The identification, evaluation, and educational placement of the child, and

(2) The provision of a free appropriate public education to the child.

(Authority: 20 U.S.C. 1415(b)(1)(B))

State Statute Defining Surrogate Parent

EC § 56050. Representation of individuals with exceptional needs; liability

(a) For the purposes of this article, "surrogate parent" shall be defined as it is defined in the federal regulations adopted pursuant to Public Law 94-142.

(b) A surrogate parent may represent an individual with exceptional needs in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the individualized education program, and in other matters relating to the provision of a free appropriate education to the individual. Notwithstanding any other provision of law, this representation shall include the provision of written consent to the individualized education program including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. The surrogate parent may sign any consent relating to individualized education program purposes.

(c) A surrogate parent shall be held harmless by the State of California when acting in his or her official capacity except for acts or omissions which are found to have been wanton, reckless, or malicious.

(d) A surrogate parent shall also be governed by Section 7579.5 of the Government Code. [Added by Stats. 1981, c. 1044, p. 4002, § 4. Amended by Stats. 1990, c. 182 (A.B. 1528), § 2 and Stats. 199, c. 223 (AB 1060), § 4]

Former § 56050 was repealed by Stats. 1980, c. 797, p. 2411, § 8.

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Definition of a Parent

34 C.F.R. § 300.10 Parent

As used in this part, the term **parent** means a parent, a guardian, a person acting as a parent of a child, or a surrogate parent who has been appointed in accordance with § 300.514. The term does not include the State if the child is a ward of the State.

(Authority: 20 U.S.C. 1415)

Comment. The term **parent** is defined to include persons acting in the place of a parent, such as a grandmother or stepparent with whom a child lives, as well as persons who are legally responsible for a child's welfare.

EC § 56028

"Parent" includes any person having legal custody of a child. "Parent," in addition, includes any adult pupil for whom no guardian or conservator has been appointed and the person having custody of a minor if neither the parent nor legal guardian can be notified of the educational actions under consideration. "Parent" also includes a parent surrogate. "Parent" does not include the state or any political subdivision of government. [Added by Stats. 1980, c. 797, § 9. Amended by Stats. 1990, c. 182 (A.B. 1528), § 1 .]

Recent California Legislation Related to Surrogate Parent Program

Govt. Code § 7579.5 (AB 1528)

(a) A surrogate parent shall not be appointed for a child who is a dependent or ward of a court unless the court specifically limits the right of the parent or guardian to make educational decisions for the child. A surrogate parent shall not be appointed for a child who has reached the age of majority unless the child has been declared incompetent by a court of law.

(b) A local educational agency shall appoint a surrogate parent for a child under one or more of the following circumstances:

(1) The child is adjudicated a dependent or ward of the court pursuant to Section 300, 601, or 602 of the Welfare and Institutions Code upon referral of the child to a local educational agency for special education and related services, or in cases where the child already has a valid individualized education program.

(2) No parent for the child can be identified.

(3) The local educational agency, after reasonable efforts, cannot discover the location of a parent.

(c) For the purposes of this section, the surrogate parent shall serve as the child's parent and shall have the rights relative to the child's education that a parent has under Title 20 (commencing with Section 1400) of the United States Code and pursuant to Part 300 of Title 34 (commencing with Section 300.1) of the Code of Federal Regulations. The surrogate parent may represent the child in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the individualized education program, and in all other matters relating to the provision of a free appropriate public education of the child. Notwithstanding any other provision of written consent to the individualized education program including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to this chapter. The surrogate parent may sign any consent relating to individualized education program purposes.

(d) As far as practical, a surrogate parent should be culturally sensitive to his or her assigned child.

(e) Individuals who would have a conflict of interest in representing the child, as specified under federal regulations, shall not be appointed as a surrogate parent. "An individual who would have a conflict of interest," for purposes of this section, means a person having any interests that might restrict or bias his or her ability to advocate for all of the services required to ensure a free appropriate public education for an individual with exceptional needs, as defined in Section 56026 of the Education Code.

(f) Except for individuals who have a conflict of interest in representing the child, and notwithstanding any other law or regulations, individuals who may serve as surrogate parents include, but are not limited to, foster care providers, retired teachers, social workers, and probation officers who are not employees of a public agency involved in the education or care of the child. The surrogate parent shall not be an employee of a public or private agency that is involved in the education or care of the child. If a conflict of interest arises subsequent to the appointment of the surrogate parent, the local educational agency shall terminate the appointment and appoint another surrogate parent.

(g) The surrogate parent and the local educational agency appointing the surrogate parent shall be held harmless by the State of California when acting in their official capacity except for acts or omissions which are found to have been wanton, reckless, or malicious.

(h) Nothing in this section shall be interpreted to prevent a parent or guardian of an individual with exceptional needs from designating another adult individual to represent the interests of the child for educational and related services.

(i) If funding for implementation of this section is provided, it may only be provided from Item 6110-161-890 of the Budget Act.

[Added by Stats. 1990, c. 182 (A.B. 1528), § 5 and Stats. 1991, c. 223 (AB 1060), § 10.]

Other Related Codes and Regulations

Education Code

EC § 49076

A school district is not authorized to permit access to pupil records to any person without written parental consent or under judicial order except that:

(a) Access to those particular records relevant to the legitimate educational interests of the requester shall be permitted to the following:

(b) Any probation officer or district attorney for the purposes of conducting a criminal investigation or any investigation in regards to declaring a person a ward of the court or involving a violation of a condition of probation.

No person, persons, agency, or organization permitted access to pupil records pursuant to this section shall permit access to any information obtained from those records by any other person, persons, agency, or organization without the written consent of the pupil's parent. However, this paragraph shall not be construed as to require prior parental consent when information obtained pursuant to this section is shared with other persons within the educational institution, agency, or organization obtaining access, so long as those persons have a legitimate interest in the information.

Article 5. Licensed Children's Institutions and Foster Family Homes

56155. The provisions of this article shall only apply to individuals with exceptional needs placed in a licensed children's institution or foster family home by a court, regional center for the developmentally disabled, or public agency, other than an educational agency.

56155.5. (a) As used in this article, "licensed children's institution" means a residential facility which is licensed by the state, or other public agency which has delegated authority by contract with the state to license, to provide nonmedical care to children, including, but not limited to, individuals with exceptional needs. "Licensed children's institution" in addition, includes a group home as defined by subdivision (a) of Section 8001 of Title 22 of the California Administrative Code.

(b) As used in this article, "foster family home" means a family residence which is licensed by the state, or other public agency which has delegated authority by contract with the state to license, to provide 24-hour nonmedical care and supervision for not more than six foster children, including, but not limited to, individuals with exceptional needs. "Foster family home," in addition, includes a small family home as defined in paragraph (6) of subdivision (a) of Section 1502 of the Health and Safety Code.

56156. (a) Each court, regional center for the developmentally disabled, or public agency that engages in referring children to, or placing children in, licensed children's institutions shall report to the special education administrator of the district, special education local plan area, or county office in which the licensed children's institution is located any referral or admission of a child who is potentially eligible for special education.

(b) At the time of placement in a licensed children's institution or foster family home, each court, regional center for the developmentally disabled, or public agency shall identify all of the following:

(1) Whether the courts have specifically limited the rights of the parent or guardian to make educational decisions for a child who is a ward or dependent of the court.

(2) The location of the parents, in the event that the parents retain the right to make educational decisions.

(3) Whether the location of the parents is unknown.

(c) Each person licensed by the state to operate a licensed children's institution, or his or her designee, shall notify the special education administrator of the district, special education local plan area, or county office in which the licensed children's institution is located of any child potentially eligible for special education who resides at the facility.

(d) The superintendent shall provide each county office of education with a current list of licensed children's institutions in that county at least biannually. The county office shall maintain the most current list of licensed children's institutions located within the county and shall notify each district and special education local plan area within the county of the names of licensed children's institutions located in the geographical area covered by the district and special local plan area. The county office shall notify the director of each licensed children's institution of the appropriate person to contact regarding individuals with exceptional needs.

56156.5. (a) Each district, special education local plan area, or county office shall be responsible for providing appropriate education to individuals with exceptional needs residing in licensed children's institutions and foster family homes located in the geographical area covered by the local plan.

(b) In multidistrict and district and county office local plan areas, local written agreements shall be developed, pursuant to subdivision (f) of Section 56220, to identify the public education entities that will provide the special education services.

(c) If there is no local agreement, special education services for individuals with exceptional needs residing in licensed children's institutions shall be the responsibility of the county office in the county in which the institution is located, if the county office is part of the special education local plan area, and special education services for individuals with exceptional needs residing in foster family homes shall be the responsibility of the district in which the foster family home is located. If a county office is not a part of the special education local plan area, special education services for individuals with exceptional needs residing in licensed children's institutions, pursuant to this subdivision, shall be the responsibility of the responsible local agency or other administrative entity of the special education local plan area. This program responsibility shall continue until the time local written agreements are developed pursuant to subdivision (f) of Section 56220.

Government Code

Govt. Code § 7579. (a)

Prior to placing a handicapped child or a child suspected of being handicapped in a residential facility outside the child's home, a court, regional center for the developmentally disabled, or public agency other than an educational agency, shall notify the administrator of the special education local plan area in which the residential facility is located. The administrator of the special education local plan area shall provide the court or other placing agency with information about the availability of an appropriate public or nonpublic nonsectarian special education program in the special education local plan area where the residential facility is located.

Govt. Code § 7579.1(a)

Prior to the discharge of any handicapped child who has an active individualized education program from a public hospital, proprietary hospital, or residential medical facility pursuant to Article 5.5 (commencing with Section 56167) of Ch. 2 of Part 30 of the Education Code, a licensed children's institution or foster family home pursuant to Article 5 (commencing with Section 56155) of Ch. 2 of Part 30 of the Education Code, or a state hospital for the developmentally disabled or mentally disordered, the following shall occur:

(1) The operator of the hospital or medical facility, or the agency that placed the child in the licensed children's institution or foster family home, shall, at least ten days prior to the discharge of a handicapped child, notify in writing the local educational agency in which the special education program for the child is being provided and the receiving special education local plan area where the child is being transferred of the impending discharge.

(2) The operator or placing agency, as part of the written notification, shall provide the receiving special education local plan area with a copy of the child's individualized education program, the identity of the individual responsible for representing the interests of the child for educational and related services for the impending placement, and other relevant information about the child that will be useful in implementing the child's individualized education program in the receiving special education local plan area.

(b) Once the handicapped child has been discharged, it shall be the responsibility of the receiving local educational agency to ensure that the handicapped child receives an appropriate educational placement that commences without delay upon his or her discharge from the hospital, institution, facility, or foster family home in accordance with Section 56325 of the Education Code. Responsibility for the provision of special education rests with the school district of residence of the parent or guardian of the child unless the child is placed in another hospital, institution, facility, or foster family home in which case the responsibility of special education rests with the school district in which the child resides pursuant to Sections 56156.5, 56156.6, and 56167 of the Education Code.

7579.5. (a) A surrogate parent shall not be appointed for a child who is a dependent or ward of the court unless the court specifically limits the right of the parent or guardian to make educational decisions for the child. A surrogate parent shall not be appointed for a child who has reached the age of majority unless the child has been declared incompetent by a court of law.

(b) A local educational agency shall appoint a surrogate parent for a child under one or more of the following circumstances:

(1) The child is adjudicated a dependent or ward of the court pursuant to Section 300, 601, 602 of the Welfare and Institutions Code upon referral of the child to a local educational agency for special education and related services, or in cases where the child already has a valid individualized education program.

(2) No parent for the child can be identified.

(3) The local educational agency, after reasonable efforts, cannot discover the location of a parent.

(c) For the purposes of this section, the surrogate parent shall serve as the child's parent and shall have the rights relative to the child's education that a parent has under Title 20 (commencing with Section 1400) of the United States Code and pursuant to Part 300 of the Title 34 (commencing with Section 300.1) of the Code of Federal Regulations. The surrogate parent may represent the child in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the individualized education program, and all other matters relating to the provision of a free appropriate public education of the child.

(d) As far as practical, a surrogate parent should be culturally sensitive to his or her assigned child.

(e) Individuals who would have a conflict of interest in representing the child, as specified under federal regulations, shall not be appointed as a surrogate parent. "An individual who would have a conflict of interest," for purposes of this section, means a person having any interests that might restrict or bias his or her ability to advocate for all of the services required to ensure a free appropriate public education for an individual with exceptional needs, as defined in Section 56026 of the Education Code.

(f) Except for individuals who have a conflict of interest in representing the child, and notwithstanding any other law or regulation, individuals who may serve as surrogate parents include, but are not limited to, foster care providers, retired teachers, social workers, and probation officers who are not employees of a public agency involved in the education or care of the child. The surrogate parent shall not be an employee of a public or private agency that is involved in the education or care of the child. If a conflict of interest arises subsequent to the appointment of the surrogate parent, the local educational agency shall terminate the appointment and appoint another surrogate parent.

(g) The surrogate parent and the local educational agency appointing the surrogate parent shall be held harmless by the State of California when acting in their official capacity except for acts or omissions which are found to be wanton,

reckless, or malicious.

(h) Nothing in this section shall be interpreted to prevent a parent or guardian of an individual with exceptional needs from designating another adult individual to represent the interests of the child for educational and related services.

(i) If funding for implementation of this section is provided, it may only be provided from Item 6110-161-890 of the Budget Act.

7580. Prior to licensing a community care facility, as defined in Section 1502 of the Health and Safety Code, in which a handicapped child may be placed, or prior to a modification of such a facility's license to permit expansion of the facility, the State Department of Social Services shall consult with the administrator of the special education local plan area in order to consider the impact of licensure upon local education agencies.

7581. The residential and noneducational costs of a child placed in a medical or residential facility by a public agency, other than a local education agency, or independently placed in a facility by the parent of the child, shall not be the responsibility of the state or local education agency, but shall be the responsibility of the placing agency or parent.

Welfare and Institutions Code

WIC § 245.5

In addition to all other powers granted by law, the juvenile court may direct all such orders to the parent, parents, or guardian of a minor who is subject to any proceedings under this chapter as the court deems necessary and proper for the best interests of or for the rehabilitation of the minor. These orders may concern the care, supervision, custody, conduct, maintenance, and support of the minor, including education and medical treatment.

WIC § 361(a)

In all cases which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all such limitations. Any limitation on the right of the parent or guardian to make educational decisions for the child shall be specifically addressed in the court order. The limitations shall not exceed those necessary to protect the child.

Exchanging Information Between Non-Educational Placing Agencies and LEAs

WIC § 827

(a) Except as provided in Section 828, a petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in any such case or made available to the probation officer in making his or her report, or to the judge, referee, or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer, may be inspected only by court personnel, the minor who is the subject of the proceedings, his or her parents or guardian, the attorneys for those parties, and such other persons as may be designed by court order of the judge of the juvenile court upon the filing of a petition therefore ...

Any records or reports relating to a matter within the jurisdiction of the juvenile court prepared by or released by the court, a probation department, or the county department of social services, any portion of those records or reports, any information relating to the contents of those records or reports, shall not be disseminated by the receiving agencies to any persons or agencies, other than those persons or agencies authorized to receive documents pursuant to this section. Further, any such records or reports, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be made attachments to any other documents without the prior approval of the presiding judge of the juvenile court, unless they are used in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent or ward of the juvenile court.

W.I.C. 828 Minors - Disclosure of Information

(a) Except as provided in Section 389 and 781 of this code or Section 1203.45 of the Penal Code, any information gathered by a law enforcement agency relating to the taking of a minor into custody may be disclosed to another law enforcement agency, including a school district police or security department, or to any person or agency which has a legitimate need for the information for purposes of official disposition of a case. When the disposition of a taking into custody is available, it shall be included with any information disclosed.

A court shall consider any information relating to the taking of a minor into custody, if the information is not contained in a record which has been sealed, for purposes of determining whether adjudications of commission of crimes as a juvenile warrant a finding that there are circumstances in aggravation pursuant to Section 1170 of the Penal Code or to deny probation.

(b) When a law enforcement agency has been notified pursuant to Section 1155 that a minor has escaped from a secure detention facility, the law enforcement agency shall release the name of, and any descriptive information about, the minor to a person who specifically requests this information. The law enforcement agency may release the information on the minor without a request to do so if it finds that release of the information would be necessary to assist in recapturing the minor or that it would be necessary to protect the public from substantial physical harm.

Health and Safety Code

§ 1502. Definitions

As used in this chapter:

(a) "Community care facility" means any facility, place, or building which is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) "Residential facility" means any family home, group care facility or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Adult day care facility" means any facility which provides nonmedical care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(3) "Therapeutic day services facility" means any facility which provides nonmedical care, counseling, educational or vocational support, or social rehabilitation on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with therapeutic day services and foster care providers.

(4) "Foster family agency" means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian.

(6) "Small family home" means any residential facility providing 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

(7) "Social rehabilitation facility" means any residential facility which provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Section 5458.1 of the Welfare and Institutions Code.

(8) "Community treatment facility" means any residential facility which provides mental health treatment services to children in a group setting. Program components shall be subject to program standards developed by the State Department of Mental Health pursuant to section 5405 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(9) "Full-service adoption agency" means any licensed entity engaged in the business of providing adoption services, who does all of the following:

(A) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

(B) Assesses the birth parents, prospective adoptive parents, or child.

(C) Places children for adoption.

(D) Supervises adoptive placements.

Private full-service adoption agencies shall be organized and operated on a nonprofit basis.

(10) "Noncustodial adoption agency" means any licensed entity engaged in the business of providing adoption services, who does all of the following:

(A) Assesses the prospective adoptive parents.

(B) Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved adoptive applicants.

(C) Cooperatively supervises adoptive placements with a full-service adoption agency, but does not disrupt a placement or remove a child from a placement.

Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

California Code of Regulations

Article 1. General Definitions

80000. General.

(a) The general regulations in this chapter shall apply to all community care facilities regulated by Division 6, Chapters 2 through 7 and Chapter 9, except where specifically exempted. Additional or special requirements found in the corresponding chapters pertaining to each category shall apply only to such individual facility categories.

(b) The licensee shall ensure compliance with all applicable law and regulation.

80001. Definitions

(a) The following general definitions shall apply wherever the terms are used throughout Division 6, Chapters 1 through 7 and Chapter 9, except were specifically noted otherwise. Additional definitions found at the beginning of each chapter in this division shall apply only to such specific facility category.

(1) "Administrator" means the licensee, or the adult designated by the licensee to act in his/her behalf in the overall management of the facility.

(2) "Adult" means a person who is 18 years of age or older.

(3) "Adult Day Care Facility" means any facility of any capacity which provides nonmedical care to adults on less than a 24-hour per day basis.

(4) "Adult Residential Facility" means any facility of any capacity which provides 24-hour a day nonmedical care and supervision to adults except elderly persons.

(5) "Applicant" means any adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity that has made application for an initial or renewal community care facility license.

(6) "Authorized Representative" means any person or entity authorized by law to act on behalf of any client. Such person or entity may include but not be limited to a minor's parent, a legal guardian, a conservator or a public placement agency.

(7) "Basic Rate" means the rate charged by a facility to provide basic services. For SSI/SSP recipients, the basic rate means the established nonmedical out-of-home care rate which includes any exempt income allowance but does not include that amount allocated for the recipient's personal and incidental needs.

(8) "Basic Services" means those services required by applicable law and regulation to be provided by the licensee in order to obtain and maintain a community care facility license.

(9) "Capacity" means the maximum number of persons authorized to be provided care and supervision at any one time in any licensed facility.

(10) "Care and Supervision" means any one of the following activities provided by a person or facility to meet the needs of the clients:

(A) Assistance in dressing, grooming, bathing and other personal hygiene.

(B) Assistance with taking medication, as specified in Section 80075.

(C) Central storing and/or distributing of medications, as specified in Section 80075.

(D) Arrangement of and assistance with medical and dental care.

(E) Maintenance of house rules for the protection of clients.

(F) Supervision of client schedules and activities.

(G) Maintenance and/or supervision of client cash resources or property.

(H) Monitoring food intake or special diets.

(I) Providing basic services as defined in Section 80001(a)(8).

(11) "Cash Resources" means:

(A) Monetary gifts.

(B) Tax credits and/or refunds.

(C) Earnings from employment or workshops.

(D) Personal and incidental need allowances from funding sources including but not limited to SSI/SSP.

(E) Allowances paid to children.

(F) Any other similar resources as determined by the licensing agency.

(12) "Child" means a person who is under 18 years of age.

(13) "Child Care Center" means any facility of any capacity other than a family day care home as defined in Section 88002(i) in which less than 24-hour per day nonmedical care and supervision is provided for children in a group setting.

(14) "Client" means a child or adult who is receiving care and supervision in a community care facility. Client includes 'resident' as used in the Community Care Facilities Act.

(15) "Community Care Facility" means any facility, place or building were nonmedical care and supervision, as

defined in Section 80001(a)(10) are provided.

(16) "Completed Application" means:

(A) The applicant has submitted and the licensing agency has received all required materials including: an approved fire clearance, if appropriate, from the State Fire Marshal; a criminal record clearance on the applicant and any other individuals specified in Section 80019.

(B) The licensing agency has completed a site visit to the facility.

(17) "Conservator" means a person appointed by the Superior Court pursuant to the provisions of Section 1800 et seq. of the Probate Code or Section 5350 of the Welfare and Institutions Code, to care for the person, or estate, or person and estate, of another.

(18) "Deficiency" means any failure to comply with any provision of the Community Care Facilities Act (Health and Safety Code, Section 1500 et seq.) and/or regulations adopted by the Department pursuant to the Act.

(19) "Department" is defined in Health and Safety Code Section 1502(b).

(20) "Developmental Disability" means a disability as defined in Welfare and Institutions Code Section 4512(a).

(21) "Dietitian" means a person who is a member of or registered by the American Dietetics Association.

(22) "Director" is defined in Health and Safety Code Section 1502(c).

(23) "Elderly Person" means any person who is 62 years of age or older.

(24) "Evaluator" means any person who is a duly authorized officer, employee or agent of the Department, including any officer, employee or agent of a county or other public agency authorized by the Department to license community care facilities.

(25) "Exception" means a written authorization issued by the licensing agency to use alternative means which meet the intent of a specific regulation(s) and which are based on the unique needs or circumstances of a specific client(s) or staff person(s). Exceptions are granted for particular client(s) or staff persons(s) and are not transferable or applicable to other client(s), staff persons(s), facilities or licensees.

(26) "Exemption" means an exception to the requirements of Health and Safety Code Section 1522 and applicable regulations. Exemptions are not transferable.

(27) "Existing Facility" means any community care facility operating under a valid, unexpired license on the date this chapter becomes effective.

(28) "Group Home" means any facility of any capacity which provides 24-hour nonmedical care and supervision to children in a structured environment, outside of the licensee's family residence, with such services provided at least in part by staff employed by the licensee.

(29) "Guardian" means person appointed by the Superior Court pursuant to the provisions of Sections 1500 et seq. of the Probate Code to care for the person, or estate, or the person and estate of another.

(30) "Home Economist" means a person who holds a baccalaureate degree in home economics with a specialization in either foods and nutrition or dietetics.

(31) "Infant" means a child under 2 years of age.

(32) "License" means authorization to operate a community care facility and to provide care and supervision. The license is not transferable.

(33) "Licensee" means the adult, firm, partnership, association, corporation, county, city, public agency, or other governmental entity having the authority and responsibility for the operation of a licensed community care facility.

(34) "Licensing Agency" means the State Department of Social Services or any state, county or other public agency authorized by the Department to assume specified licensing responsibilities pursuant to Section 1511 of the Health and Safety Code.

(35) "Mental Disorder" means any of the disorders set forth in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) of the American Psychiatric Association and a degree of functional impairment which renders a person eligible for the services enumerated under the Lanterman-Petris-Short Act, commencing with Section 5000 of the Welfare and Institutions Code.

(36) "Nonambulatory Person" means a person as defined in Health and Safety Code Section 13131.

(A) A person who uses supportive restraints as specified in Section 80072(a)(8) is deemed nonambulatory.

(B) A person is not deemed nonambulatory solely because he/she is deaf, blind, or prefers to use a mechanical aid.

(37) "Nutritionist" means a person who holds a master's degree in food and nutrition, dietetics, or public health nutrition, or who is employed as a nutritionist by a county health department.

(38) "Physician" means a person licensed as a physician and surgeon by the California Board of Medical Examiners or by the California Board of Osteopathic Examiners.

(39) "Provision" or "Provide" means whenever any regulation requires that provisions be made for or that there be provided any service, personnel, or other requirement, the licensee shall do so directly or present evidence to the licensing agency that the requirement has been met by some other means.

(40) "Provisional License" means a license which is temporary, nonrenewable and issued for a period not to exceed twelve months. A provisional license is issued in accordance with the criteria specified in Section 80030.

(41) "Rehabilitation Facility" means any facility of any capacity which provides 24-hour a day nonmedical care and

supervision in a group setting to adults and/or emancipated minors recovering from alcohol and/or drug misuse, who are currently or potentially capable of meeting their life support needs independently, but who temporarily need assistance, guidance or counseling.

(42) "Relative" means spouse, parent, stepparent, son, daughter, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or any such person denoted by the prefix "grand" or "great" or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.

(43) "Serious Deficiency" means any deficiency that presents an immediate or substantial threat to the physical health, mental health or safety of the clients of a community care facility.

(44) "Small family home" means any residential facility in the licensee's family residence providing 24-hour a day care for six or fewer children who are mental disordered, developmentally disabled or physical handicapped and who require special care and supervision as a result of such disabilities.

(45) "Social Worker" means a person who has a graduate degree from an accredited school of social work.

(46) "SSI/SSP" means the Supplemental Security Income/State Supplemental Program which is a federal/state program that provides financial assistance to aged, blind and/or disabled residents of California.

(47) "Substantial Compliance" means the absence of any serious deficiencies.

(48) "Urgent Need" means a situation where prohibiting the operation of the facility would be detrimental to a client's physical health, mental health, safety, or welfare. Circumstances constituting urgent need include but are not limited to the following:

(A) A change in the facility location when clients are in need of services from the same operator at the new location.

(B) A change of facility ownership when clients are in need of services from a new operator.

(49) "Waiver" means a nontransferable written authorization issued by the licensing agency to use alternative means which meet the intent of a specific regulation and which are based on a facility-wide need or circumstance.

Mental Health Treatment

§ 25.9. Mental health treatment or counseling services; consent to outpatient treatment by minor over 12; liability of parents or legal guardian

(a) Notwithstanding any other provision of law, a minor who has attained the age of 12 years who, in the opinion of the attending professional person, is mature enough to participate intelligently in mental health treatment or counseling on an outpatient basis, and (1) would present a danger of serious physical or mental harm to himself or herself or to others without such mental health treatment or counseling, or (2) has been the alleged victim of incest or child abuse, may give consent to the furnishing of such outpatient services. Such consent shall not be subject to disaffirmance because of minority. The consent of the parent, parents, or the legal guardian of the minor shall not be necessary to authorize the provision of such services. Mental health treatment or counseling of a minor as authorized by this section shall include the involvement of the minor's parent, parents, or legal guardian, unless in the opinion of the professional person who is treating or counseling the minor, such involvement would be inappropriate. Such person shall state in the client record whether and when he or she attempted to contact the parent, parents, or legal guardian of the minor, and whether such attempt to contact was successful or unsuccessful, or the reason why, in his or her opinion, it would be inappropriate to contact the parent, parents or legal guardian of the minor.

(b) The parent, parents, or legal guardian of the minor shall not be liable for payment for any such mental health treatment or counseling services, as provided in subdivision (a), unless such parent, parents, or legal guardian participates in the mental health treatment or counseling and then only for the services rendered with such participation.

(c) As used in this section "mental health treatment or counseling services" means the provision of mental health treatment or counseling on an outpatient basis by any governmental agency, by a person or agency having a contract with a governmental agency to provide such services, by any agency which receives funding from community united funds, by runaway houses and crisis resolution centers, or by any private mental health professional, as defined in subdivision (d).

(d) As used in this section "professional person" means a person designated as a mental health professional in Sections 622 to 626, inclusive, of Article 8 of Subchapter 2 of Chapter 1 of Title 9 of the California Administrative Code; marriage, family and child counselors as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code; licensed educational psychologists as defined in Article 5 (commencing with Section 4986) of Chapter 13 of Division 2 of the Business and Professions Code; credentialed school psychologists as defined in Section 49424 of the Education Code; clinical psychologists, as defined in Section 1316.5 of the Health and Safety Code; and the chief administrators of any agency referred to in subdivision (c).

(e) The provisions of this section shall not be construed to authorize a minor to receive convulsive therapy or psychosurgery as defined in subdivisions (f) and (g) of Section 5325 of the Welfare and Institutions Code, or psychotropic drugs without the consent of his or her parent or guardian.

TO BE PUBLISHED IN THE OFFICIAL REPORTS

OFFICE OF THE ATTORNEY GENERAL
State of California

DANIEL E. LUNGREN
Attorney General

OPINION	:	
	:	No. 91-204
of	:	
	:	DECEMBER 24, 1991
DANIEL E. LUNGREN Attorney General	:	
	:	
RONALD M. WEISKOPF Deputy Attorney General	:	
	:	

THE HONORABLE SAM FARR, MEMBER OF THE CALIFORNIA ASSEMBLY, has requested an opinion on the following questions relating to Government Code section 7579.5:

1. Do the rights of a surrogate parent extend to consenting for residential placement of the child?

2. Do the rights of a surrogate parent extend to consenting to psychotherapy treatment for the child?

3. May a surrogate parent be appointed before a natural parent of the child is located?

4. May a person designated by the parent to represent the interests of a child for educational and related services sign an individualized education program and consent to residential placement and psychotherapy treatment of the child on behalf of the parent?

5. Would local mental health agencies be subject to liability for performing their services without the permission of the natural parent or legal guardian, if the surrogate parent has consented by signing the assessment or individualized education program?

CONCLUSIONS

1. A surrogate parent may consent to the residential placement of a child when it is necessary to permit the child to benefit from a special education program.

2. A surrogate parent may consent to psychotherapy treatment when it is necessary for the child to benefit from a special education program.

3. A surrogate parent may be appointed before a natural parent is located if the child has been adjudicated a dependent or ward of the juvenile court, the parent is not known or cannot be identified, or reasonable efforts have been made to discover the parent's location.

4. A person designated by a parent to represent the interests of a child for educational and related services may sign an individualized education program and consent to residential placement and psychotherapy treatment of the child on behalf of the parent.

5. Local mental health agencies would not be subject to liability for performing their services without the permission of the natural parent or legal guardian, if a duly appointed surrogate parent has consented by signing the assessment or individualized education program.

ANALYSIS

Government Code section 7579.5[1] states in part:

"(a) ....

"(b) A local educational agency shall appoint a surrogate parent for a child under one or more of the following circumstances:

"(1) The child is adjudicated a dependent or ward of the court ... upon referral of the child to a local educational agency for special education and related services, or in cases where the child already has a valid individualized education program.

"(2) No parent for the child can be identified.

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[1]All section references are to the Government Code unless otherwise specified.

"(3) The local education agency, after reasonable efforts, cannot discover the location of a parent.

"(c) For the purposes of this section, the surrogate parent shall serve as the child's parent and shall have the rights relative to the child's education that a parent has under Title 20 (commencing with section 1400) of the United States Code and pursuant to Part 300 of Title 34 (commencing with section 300.1) of the Code of Federal Regulations. The surrogate parent may represent the child in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the individualized education program, and in all other matters relating to the provision of a free appropriate public education of the child.

"(d) ....

"(e) ....

"(f) ....

"(g) ....

"(h) Nothing in this section shall be interpreted to prevent a parent or guardian of an individual with exceptional needs from designating another adult individual to represent the interests of the child for educational and related services."

The statutory scheme of which section 7579.5 is a part pertains to the special education requirements of children with disabilities. As specified in section 7579.5, a "surrogate parent" is one who has the authority to make certain educational decisions for a child and does not refer to a biological surrogate parent. The five questions presented for analysis concern various rights of a surrogate parent under the provisions of section 7579.5.

By way of background, we note that the Legislature has granted all children with disabilities a right to receive a free appropriate public education. (Ed. Code, §§ 56000, 56040.) In addition, in what is now called the "Individuals with Disabilities Education Act," Congress has provided financial assistance for states and local educational agencies to provide such persons with "a free appropriate public education which emphasizes special education and related services designed to meet their unique needs." (20 U.S.C. § 1400.)

An individualized education program ("IEP") formulated for each child with a disability (Ed. Code, § 52340 et seq.; cf. 20 U.S.C. §§ 1401, 1412, 1414; 34 C.F.R. §§ 300.340-300.349) is "a comprehensive statement of educational needs ... and the specially designed instruction and related services to be employed to meet those needs." (*Burlington School Comm. v. Mass. Dept. of Ed.* (1985) 471 U.S. 359, 368.) The IEP is "developed jointly by a school official qualified in special education, the child's teacher, the parents or guardian, and where appropriate, the child." (*Ibid.*; see Ed. Code, §§ 56321, 56341, 56346; 62 Ops.Cal.Atty.Gen. 721, 722 (1979).)

As previously mentioned, a "surrogate parent" in this context refers to one who is appointed to protect the right of a child with a disability to receive a free appropriate public education. Education Code section 56050 provides in part:

> "(a) For the purposes of this article, 'surrogate parent' shall be defined as it is defined in the federal regulations adopted pursuant to Public Law 94-142.
>
> "(b) A surrogate parent may represent an individual with exceptional needs in matters relating to identification, assessment, reviewing and revising the individualized education program, and in other matters relating to the provision of a free appropriate education to the individual.
>
> "...
>
> "(d) A surrogate parent shall also be governed by section 7579.5 of the Government Code."[2]

1. Consent for Residential Placement

The first question presented for resolution is whether a surrogate parent may consent to the residential placement of a child under the terms of section 7579.5. We conclude that a surrogate parent may do so under certain circumstances.

Providing special education and related services may require out-of-home residential placement for the child, if that is necessary for educational purposes. (*San Francisco Unified School Dist. v. State of California* (1982) 131 Cal.App.3d 54, 69, 71.) In this regard, the California Code of Regulations, title 5, section 3042, provides:

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[2]"Public Law 94-142" refers to the Education of All Handicapped Children Act of 1975. (See 20 U.S.C. § 1415(b)(1)(B); 34 C.F.R. § 300.514.)

"Specific educational placement means that unique combination of facilities, personnel, location or equipment necessary to provide instructional services to an individual with exceptional needs, as specified in the individualized education program, in any one or a combination of public, private, home and hospital, or residential settings."

As previously shown, a parent has a right to participate in the formulation of the IEP in which residential placement of the child would (as one alternative) be designated. (Ed. Code, § 56341; 20 U.S.C. §§ 1401, 1425; 34 C.F.R. §§ 300.344-300.345.) Parental consent is specifically required prior to a child's special education placement. (Ed. Code, § 56346; 34 C.F.R. § 300.504(b)(ii).)

Thus in the formulation of an IEP, a parent, and therefore a surrogate parent (§ 7579.5, subd. (c)), would have authority to make educationally related out-of-home placement decisions with respect to the child.[3]

In answer to the first question, therefore, we conclude that under the provisions of section 7579.5, a surrogate parent may consent to the residential placement of the child when it is necessary for the child to benefit from a special education program.

2. Consent for Psychotherapy Treatment

The second question posed is whether a surrogate parent may consent to the psychotherapy treatment of the child under the terms of section 7579.5. We conclude that a surrogate parent may so consent.

The right of a child with a disability to receive a free appropriate public education includes the right to receive those services, including health and nursing, psychological, and other supportive services, as may be necessary to permit the child to benefit educationally from that instruction. (Ed. Code, § 56363; 20 U.S.C. § 1401(a)(17); 34 C.F.R. § 300.13; cf. *Hendrick Hudson Dist. Bd. of Ed. v. Rowley* (1982) 458 U.S. 176, 188-189, 203; *McKenzie* v. *Jefferson* (D.D.C. 1983) 566 F.Supp. 404, 411.) The extent and description of these related services are set forth in detail in section 3051 of title 5 of the

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[3]Any out-of-home residential placement must be made for educational, as opposed to strictly medical or other, purposes. (Cf. 34 C.F.R. § 300.302 ["If placement in a public or private residential program is necessary to provide special education and related services to a handicapped child, the program, including non-medical care and room and board, must be at no cost to the parents of the child .... This requirement applies to placements which are made by public agencies for educational purposes ...."]; see *San Francisco Unified School Dist. v. State of California, supra*, 131 Cal.App.3d at 69, 71; *McKenzie v. Smith* (D.C. Cir. 1985) 771 F.2d 1527, 1534; *Abrahamson v. Hershman* (1st Cir. 1983) 701 F.2d 223, 227-228; *Kauelle v. New Castle County Sch. Dist.* (3d Cir. 1981) 642 F.2d 687, 693.)

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California Code of Regulations. These services would include psychological services (34 C.F.R. § 300.13(a)), such as psychological counseling (34 C.F.R. § 300.13(b)(2)), psychotherapy (cf. *T.G.* v. *Bd. of Educ. of Piscataway* (D. N.J. 1973) 576 F.Supp. 420, 423-424; *Papacoda* v. *State of Connecticut* (D. Conn. 1981) 528 F.Supp. 68, 72), and behavior modification (*Chris C.* v. *Montgomery County Bd. of Educ.* (M.D. Ala. 1990) 743 F.Supp. 1524, 1529-1530).[4]

As previously noted, a surrogate parent has the same rights as a parent relative to the child's education and may represent the child in matters relating to assessment, planning, development, and "all other matters relating to the provision of a free appropriate public education . . . ." (§ 7579.5, subd. (c).) To the extent that any of these related services are needed to enable the child to take advantage of and benefit from a special education program, the surrogate parent would have the same authority as a parent to consent to the providing of these services.

It is concluded that a surrogate parent may consent to psychotherapy treatment which is necessary for the child to benefit from a special education program.

3. Appointment of Surrogate Parent

The third question presented is whether a surrogate parent may be appointed before locating the child's natural parents. We conclude that section 7579.5 grants such authority.

Subdivision (b) of section 7579.5 provides:

> "A local educational agency shall appoint a surrogate parent for a child under one or more of the following circumstances:
>
> "(1) The child is adjudicated a dependent or ward of the court ... upon referral of the child to a local educational agency for special education and related services, or in cases when the child already has a valid individualized education program.
>
> "(2) No parent for the child can be identified.
>
> "(3) The local educational agency, after reasonable efforts, cannot discover the location of a parent."

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[4]Similar to the situation of an out-of-home residential placement determination, the related services that a child may receive would be limited to those intended to assist the child in benefitting from his or her special education program. (Cf. 20 U.S.C. § 1401(17); 34 C.F.R. §§ 300.13 - 300.14.)

The statutory language is clear and unambiguous. A surrogate parent may be appointed before a natural parent is located when the child is adjudicated a dependent or ward of the court, when a parent is not known or cannot be identified, or where the local educational agency after reasonable efforts cannot discover the parent's location. (Cf. 20 U.S.C. § 1415(b)(1)(B); 34 C.F.R. § 300.514.) What would constitute "reasonable efforts" in a particular case would depend upon all the facts and circumstances.

We therefore conclude that a surrogate parent may be appointed before a natural parent is located in situations where the child has been adjudicated a dependent or ward of the juvenile court, where the parent is not known or cannot be identified, or where reasonable efforts have been made to discover the parent's location.

4. Parental Designation

We are asked in the fourth question whether a person designated by a parent to represent the interests of a child for educational and related services may sign the IEP or consent to residential placement and psychotherapy treatment of the child on behalf of the parent. We conclude that the designated person may do so.

Subdivision (h) of section 7579.5 expressly provides as follows:

> "Nothing in this section shall be interpreted to prevent a parent or guardian of an individual with exceptional needs from designating another adult individual to represent the interests of the child for educational and related services."

We have examined in detail the legislative history regarding the enactment of section 7579.5 (Stats. 1990, ch. 182, § 5). In the report of the Assembly Committee on Human Resources (Aug. 23, 1989), one of the legislative purposes was specified as follows:

> "Provides that a parent or guardian of a child eligible for services under this act may designate another adult individual to represent the interests of the child for educational and related services."

A similar statement is contained in the Enrolled Bill Report of the Department of Social Services of the Health and Welfare Agency (June 22, 1990) as to the latter's understanding of the legislative purpose:

> "The bill establishes basic requirements for the appointment of a surrogate as follows:

" . . . .

"A parent or guardian may designate another adult to act on behalf of the child in regard to educational services without requiring the appointment of a surrogate parent."

Not only is it "well established that reports of legislative committees and commissions are part of a statute's legislative history and may be considered when the meaning of a statute is unclear" (*Hutnick* v. *United States Fidelity & Guaranty Co.* (1988) 47 Cal.3d 456, 465, fn. 7), but "[t]he contemporaneous construction of a new enactment by the administrative agency charged with its enforcement, although not controlling, is entitled to great weight" (*Dyna-Med, Inc.* v. *Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1388). (See also *Long Beach Police Officers Assn.* v. *City of Long Beach*, (1988) 46 Cal.3d 736, 743; *Sand* v. *Superior Court* (1983) 34 Cal.3d 567, 570.)

It is also to be noted that Education Code section 56341 authorizes as a member of an individualized education program team: "[o]ne or both of the pupil's parents, a representative selected by the parent, or both . . . ." Under federal law the definition of "parent" for purposes of representing a child in the special education process includes "a person acting as a parent of a child." (34 C.F.R. § 300.10.) The comment to the federal regulations states that "the term *parent* is defined to include acting in the place of a parent . . . ."

Both state and federal law thus recognize the right of parents to designate their own representative, besides the authority of a local educational agency to appoint a surrogate parent when the natural parents cannot be found.

We therefore conclude that a person designated by a parent to represent the interests of a child for educational and related services may sign the IEP and consent to residential placement and psychotherapy treatment of the child on behalf of the parent. Section 7579.5 does not preclude such parental right; rather, it recognizes such authority.

5. Liability of Agency Provider

The final question presented is whether local mental health agencies would be subject to liability for performing their services without the permission of the natural parent or legal guardian, where the surrogate parent has signed the assessment and the IEP. We conclude that they would not be liable.

By signing an assessment, a parent consents to have inquiry made into the child's special educational needs by, *inter alia*, testing procedures administered by qualified persons. (Ed. Code, §§ 56320, 56324.) By consenting to an IEP, a parent agrees to the

program of special education and related services that the child will receive under it. (Cf. Ed. Code, §§ 56321(b)(4), 56346.)

Under both state and federal law, a surrogate parent stands in place of the parent and has all the rights a parent has to see that a child receives an appropriate free public education. (§ 7579.5, subd. (c); Ed. Code, §§ 56028, 56050; 34 C.F.R. §§ 300.10, 300.541(e).) Indeed, for the purposes of both, the surrogate parent is deemed the parent. (Ed. Code, § 56028; 34 C.F.R. § 300.10.) A surrogate parent has the same authority to consent to an assessment and formulation of an IEP as does the natural parent.

Moreover, a surrogate parent is appointed at times when a natural parent is unknown or cannot be located. (§ 7579.5, subd. (c); Ed. Code, §§ 56028, 56050; 20 U.S.C. § 1415(b)(1)(B); 34 C.F.R. §§ 300.541(e).) It follows that the consent of a surrogate parent must be legally sufficient for an assessment and the related services necessary for the special education of a child; otherwise, the child could not receive the free appropriate public education to which he or she is entitled by law.

We therefore conclude that local mental health agencies would not be subject to liability for performing their services without the permission of the natural parent or legal guardian, if a duly appointed surrogate parent has consented by signing the assessment or individualized education program.

* * * * *

Suggested agenda and masters for overhead transparencies

PART 4: ADMINISTRATORS' TRAINING MATERIALS

CALIFORNIA SURROGATE PARENT APPOINTMENT

Administrators' Workshop

Goal:

To develop the knowledge and skills necessary to develop and implement policies and procedures for surrogate parent appointment.

Desired Outcomes:

1. To develop awareness of laws and regulations governing surrogate parents
2. To acquire knowledge and resources to meet legal mandates
3. To share with administrators the process and procedures with administrators for implementing a surrogate parent program
   a. development of local plan
   b. establish surrogate parent training system
4. To become familiar with Resource Notebook, Video and Surrogate Parent Overview Document

Workshop Agenda

Outcome Number	Suggested Minutes	Content	Presentation Strategy
	10	Welcome Introductions Goals and outcomes	group interaction
1	10	Purpose of Surrogate Program	Individual activity
		PRETEST	large group
2	20	Legal Mandates	small group activity
3	35	Surrogate Parent Program Overview When to appoint? What is a Surrogate Parent? Who needs a Parent? Who needs a Surrogate Parent?	lecturette/jigsaw
	15	BREAK	
3	30	Surrogate Parent Program Overview (cont.) Who trains the surrogate parent Who appoints the surrogate parent? Who monitors the appointment?	lecturette/jigsaw
2, 3	30	Surrogate Parent regulations, rights, responsibilities Questions and Answers	small group activity
	15	Debriefing What to expect from afternoon	brainstorming large group discussion
4	55	LUNCH BREAK viewing of videotape = "Special Child, Special Rights"	
3	15	How to Get Started and Keep Going Local Plan Considerations — interagency linkages — local plan sample language	lecturette large group interaction
	45	Establish Demand/Need for Surrogate Parents — determine parent status — request for surrogate parent — establish guidelines for interaction	lecturette
	15	BREAK	
3	30	Prepare System to Supply Surrogate Parents — recruitment — screening, application, selection — training — appointment — evaluation/monitoring — forms	lecturette small group tasks
4	45	Develop Action Plans Review Resources	small group activity
	30	Post-Test	individual activity
		Questions and Answers	group discussion
		Closure	

Purpose of the Program

Educational Representation of all Children with Special Educational Needs

Education of All Handicapped Children Act - 1975. PL 94-142 Birth to age 22

Established Four Major Rights:

- Free Appropriate Public Education (FAPE)
- Least Restrictive Environment (LRE)
- Fair Assessment Procedures
- Parent Involvement in Educational Decisions

And Two Key Protections:

- Individualized Education Plan (IEP)
- Due Proc

AB 1528 requires:

SELPA director develops local plan policy on appointment process for surrogate parents.

A surrogate parent be appointed for a child under specified circumstances.

A surrogate parent serve as the child's parent with full educational rights.

Definition of "Parent"

34 C.F.R. Section 300.10 Parent, Guardian, Person acting as a parent of a child or a surrogate parent appointed in accordance with section 300.514. Does not include State if child is a ward.

EC Section 56028 Any person having legal custody of child.

What is a Surrogate Parent?

- A person acting as an educational representative for an individual in matters related to identification, assessment, instructional planning and development, placement, the IEP and other related matter.
- Is appointed by LEA
- Knows programs available

Children in Need of Surrogate Parents

1. Have been referred for special education or already found to be eligible for special education
2. Dependents or wards of the court whose parents' rights for educational representation have been removed
3. No parent can be identified
4. Parent cannot be located

Court Orders for 300s and 601s/602s

- Court may specify status of parents educational rights
- Silence from court means parents' rights remain intact

Adult Pupils in Special Ed

- Conservators
- Over 18 years old

LEA Responsibility

- Recruit
- Train
- Appoint
- Monitor

Each person selected as a surrogate parent shall:

- Have no conflict of interest
- Have adequate knowledge and skills
- Not be an employee of district/agency responsible for education and care of student
- Have cultural sensitivity/match

Qualifying

1. Verify no conflict of interest
2. Complete surrogate parent agreement
3. Duration of appointment
4. Evaluation
5. Liability of surrogate parent
6. Termination of appointment
7. Provide appropriate notification to school/agencies

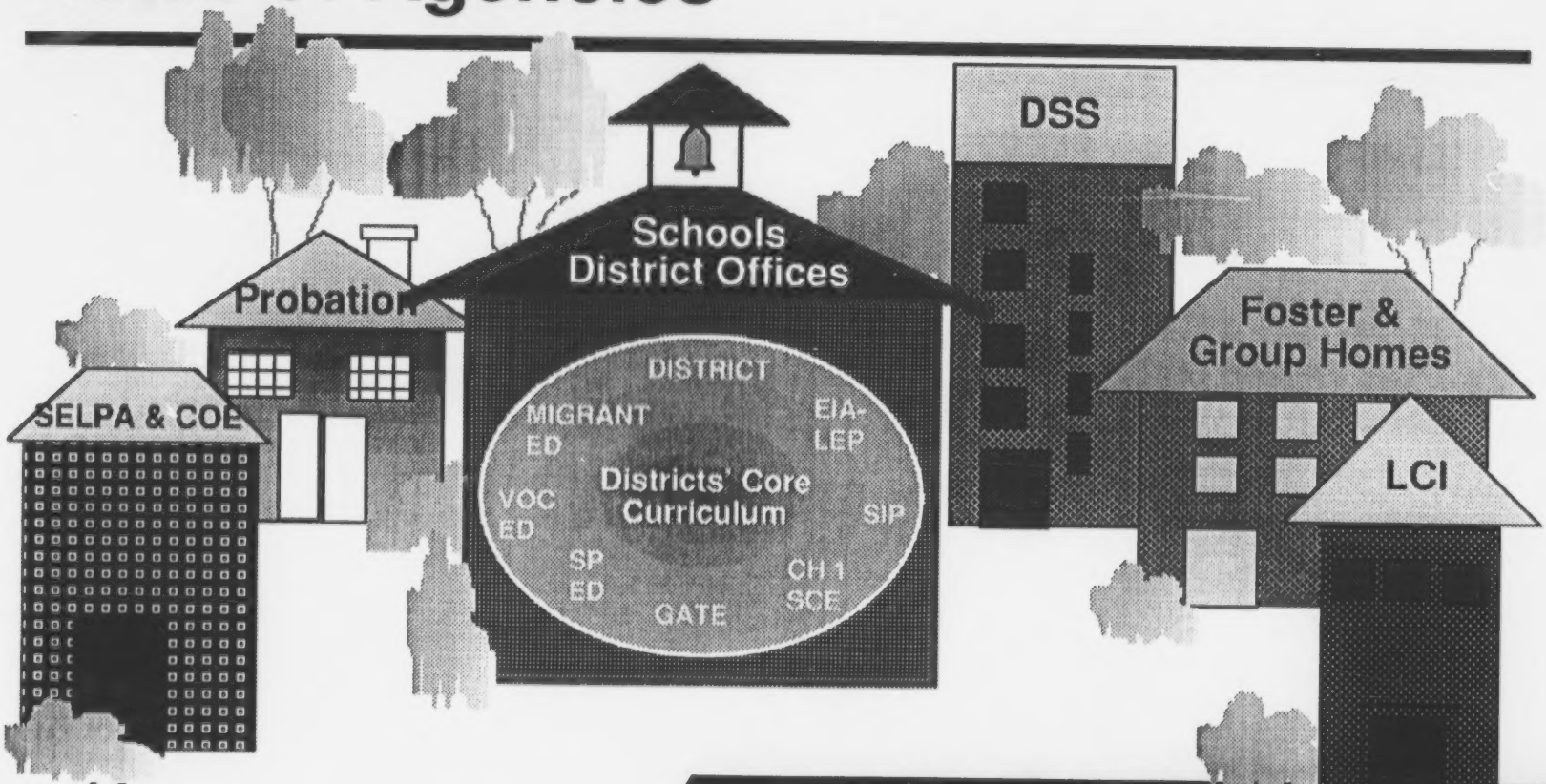
Roles and Responsibilities of Surrogate Parent

- Complete special education training or alternative as determined by LEA
- Attend IEP meeting
- Participate in decision making
- Review records
- Communicate/meet with students, school, agency personnel, etc.
- Monitor implementation of IEP
- Make a time commitment

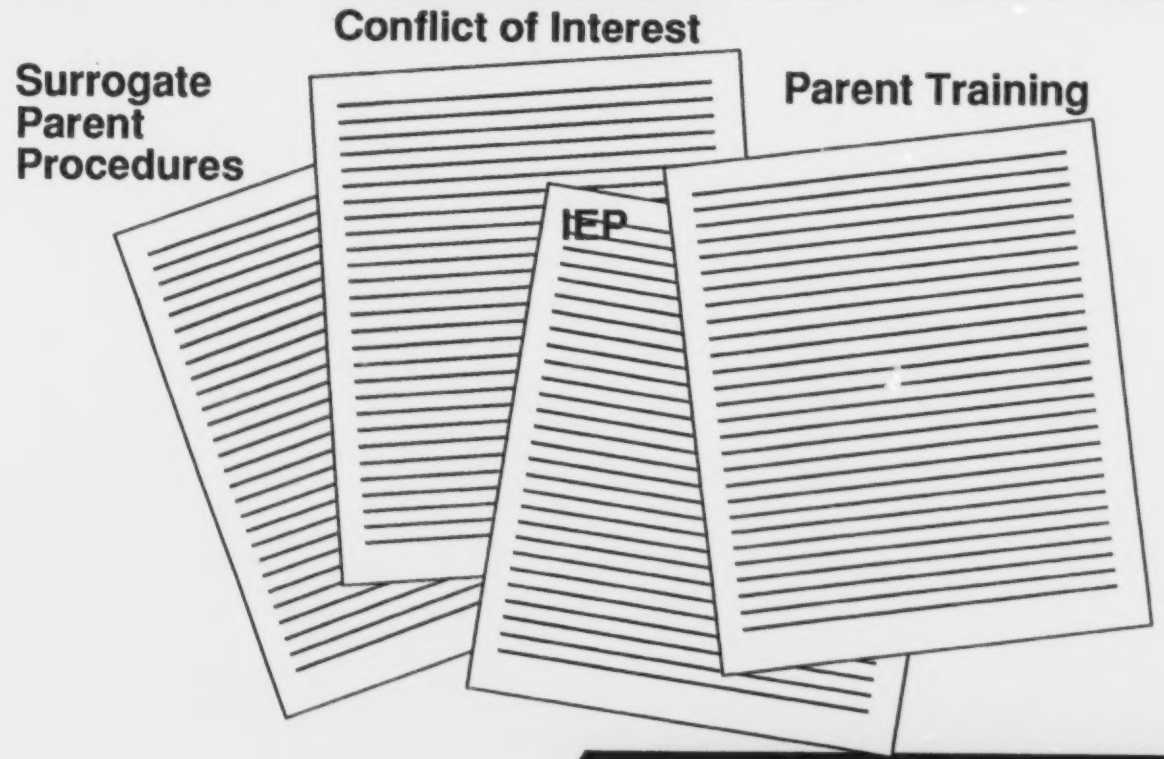
Confidentiality

- Student information
- Access to relevant education records
- Medical records
- Psychological records

Roles of Agencies



Local Plan Language



Establish Demand

- Determine parent status
- Request for surrogate parent
- Establish guidelines for interaction

Determine Parent Status

- Parent absence
  - Reasonable efforts
  - Court limitation
  - Adult pupil
- Court jurisdictions
  - Wardship or dependency
  - Guardians
  - General conservatorship
  - Limited conservatorship

Request for a Surrogate Parent

Establish Guidelines for Interaction

Prepare Supply System

- Recruitment
- Screening/Application
- Training
- Appointment/Registration
- Evaluation/Monitor
- Forms

Recruitment Sources

- Volunteer programs, PTA, Junior League
- Retired teachers
- Foster parents
- Special Education Commission
- Community Advisory Committee (CAC)
- Court Appointed Special Advocates (CASA)
- Parent support groups
- Service organizations

Screening

- Verify personal information
- Check references
- Review conflict of interest
- Assess cultural sensitivity
- Establish availability

Training

- State, federal special education laws
- Structures, procedures of LEA
- Nature of child's disability

Appointment

- Verify no conflict of interest
- Complete surrogate parent agreement
- Duration
- Recordkeeping
- Liability
- Termination

Monitoring

- LEA monitors surrogate parent
  - log sheet
  - time reporting
- SELPA monitors LEA
- SEA monitors SELPA

Suggested agenda, sample flyer, activities, evaluation form, and masters for overhead transparencies

PART 5: SURROGATE PARENTS' TRAINING MATERIALS

The goal of the module is to increase the participants' knowledge and understanding of (1) basic rights and responsibilities of surrogate parents; and (2) the specific role of surrogate parents in the development and implementation of the Individualized Education Program (IEP).

Objectives

1. Examine basic roles, rights, responsibilities, qualifications, qualities of surrogate prarents.
2. Develop an awareness of the federal and state laws and regulations which safeguard the rights of children with disabilities and their surrogate parents.
3. Develop an awareness of the IEP process.
4. Examine the role and responsibilities of surrogate parents in the IEP process.
5. Discuss techniques for effective surrogate parents and student involvement in the IEP process.
6. Practice goal writing for the IEP.

Objective Number	Suggested Minutes	Content	Presentation Strategy
	10	Introduction, Objectives and Agenda Review	
4	10	Roles in the IEP Process Pretest	Individual and Small Group Activity with Large Group Sharing
1	30	Surrogate Parents	Lecturette and Large Group Discussion
2	30	Legislative Overview	Lecturette and Large Group Discussion
	5	Break	
3	10	IEP Process	Lecturette
3	15	Placement/Least Restrictive Environment	Large Group Discussion
4	20	Surrogate Parent Responsibilities	Large Group Activitiy and Brainstorming
	10	Break	
5	10	Parent and Student Involvement in the IEP Process	Lecturette and Large Group Discussion
6	25	Goal Writing	Individual and Small Group Activity with Large Group Report Back
4	15	Roles in the IEP Process Post-test	Individual Activity
	10	Conclusion and Evaluation	
	210		

Sample Flyer

Surrogate Parents and the Individualized Education Program (IEP) Process: Rights and Responsibilities

(For All Interested and Involved Surrogate Parents and Prospective Surrogate Partents)

You, as a participant, will learn about:

- basic roles, rights, responsibilities and qualifications of surrogate parents
- federal and state laws that safeguard the rights of children with disabilities and their parents
- the IEP process
- the roles and responsibilities of surrogate parents in the IEP process
- how surrogate parents and students can be involved in the IEP process
- writing goals for the IEP

Day and Date:

Time:

Location:

For More Information, Call:

Please Come

Overhead

Sample Activity

Roles and Responsibilities in the IEP Process

Please read each item carefully.

PARENTS*: Check the box opposite the statement which best describes what you think is an appropriate /inappropriate role for you to assume during the IEP process.

STAFF*: Check the box opposite the statement which best describes what you, as a staff member, think is an appropriate/inappropriate role for parents to assume during the IEP process.

*If you are not sure if a role is appropriate/inappropriate, check "uncertain."

0 APPROPRIATE	1 INAPPROPRIATE	2 UNCERTAIN	
			Assessment Activities
			1. *Gather information* relevant to the student.
			2. *Summarize information* relevant to the student.
			3. *Present information* relevant to the student.
			4. *Interpret information* relevant to the student.
			Programming Activities
			5. *Suggest* student's subject matter *needs*.
			6. *Suggest* instructional *methods* for student.
			7. *Set* evaluation *criteria* for student's academic performance in the special education program.
			Evaluation Activities
			8. *Use* student *needs as guidelines* for judging programming alternatives.
			9. *Evaluate the alternatives* from the viewpoint of the school's ability to deliver the services.
			10. *Influence others* to accept a specific program for the student.
			11. *Review* the continued appropriateness of the student's educational *program*.
			12. *Review* the student's educational *progress*.
			IEP Meeting Activities
			13. *Encourage others* to participate.
			14. *Resolve conflicts* of opinions.
			15. *Determine* team *membership*.
			16. *Establish* meeting *dates*.
			17. *Responsibility* for implementation of the student's special education program.
			18. *Disseminate* the team *decisions* to appropriate persons.

Overhead

IDEA Guarantees Four Major Rights:

1. Free Appropriate Public Education

2. Placement in Least Restrictive Environment

3. Fair Assessment Procedures

4. Parent Involvement in Educational Decisions

And Two Protections

1. Individualized Education Program (IEP)

2. Due Process Procedures

Overhead

The Individualized Education Program

What it is:

1. A written individualized statement
2. Developed by a team
3. To guarantee delivery of appropriate services
4. For all children who meet eligibility requirements

What it is not:

1. A binding contract that guarantees that goals and objectives will be accomplished

Overhead

Due Process

Due process ensures that both school agencies and parents have the right to request a hearing to resolve disagreements relative to the appropriateness of the special education programs and services offered or being provided for the child. "Due Process" proceedings is the official process the surrogate parent (or any parent) and school officials follow when there is a disagreement about the child's program. Issues which may be considered under this procedure include:

- Identification
- Assessment
- Placement of students with exceptional needs
- Provision of a free appropriate public education

What Does the IEP Include?

Overhead

The Individualized Education Program (IEP) is a written statement determined in a meeting of the individualized education program team and shall include, but not be limited to, all of the following:

1. Child's present level of educational performance.
2. Annual goals and short-term instructional objectives.
3. Statement of specific special education and related services to be provided, including extent to which the child will participate in the regular program.
4. Projected date for initiation and duration of such programs and services.
5. Appropriate evaluation procedures and objective criteria for determining, at least annually, whether the short-term instructional objectives are being achieved.

When appropriate, the IEP shall also include, but not be limited to, all of the following:

1. Prevocational career education goals.
2. Employment skills goals.
3. Alternative standards for graduation.
4. A plan for transition into regular education.
5. Specialized services, materials, and equipment needs.
6. Transportation needs.
7. For children whose main language is not English, appropriate goals, objectives, programs, and services in order for the child to benefit from instruction.
8. Extended school year services.

IEP Team

Overhead

Minimum membership shall include, but not be limited to:

- One or both of the pupil's parents, a representative selected by the parent, or both
- Administrator or administrative designee
- Pupil's present teacher. If the pupil does not presently have a teacher, a regular classroom teacher referring the pupil, or a special education teacher qualified to teach a pupil of his or her age.

When appropriate, the team shall also include:

- The individual with exceptional needs
- Other individuals, at the discretion of the parent, district, special education services region, or county office
- Persons who have assessed the student
- Anyone else whose competence is needed.

Overhead

Surrogate Parents Rights = Same Rights as Natural Parents in Education Process

1. Parents must be notified whenever the school:

   -plans to conduct a special assessment of their child.

   -wants to change their child's identification, assessment, educational placement, or the provision of a free and appropriate education.

   -refuses to initiate a change in the identification, assessment, educational placement or the provision of a free and appropriate education to the child.

2. Parent consent must be obtained before the school conducts the assessment or makes a placement.

3. Parents have the right to obtain an independent educational assessment for their child.

4. Parents must be informed by the school of their right to examine school records which relate to their child's identification, assessment and educational placement.

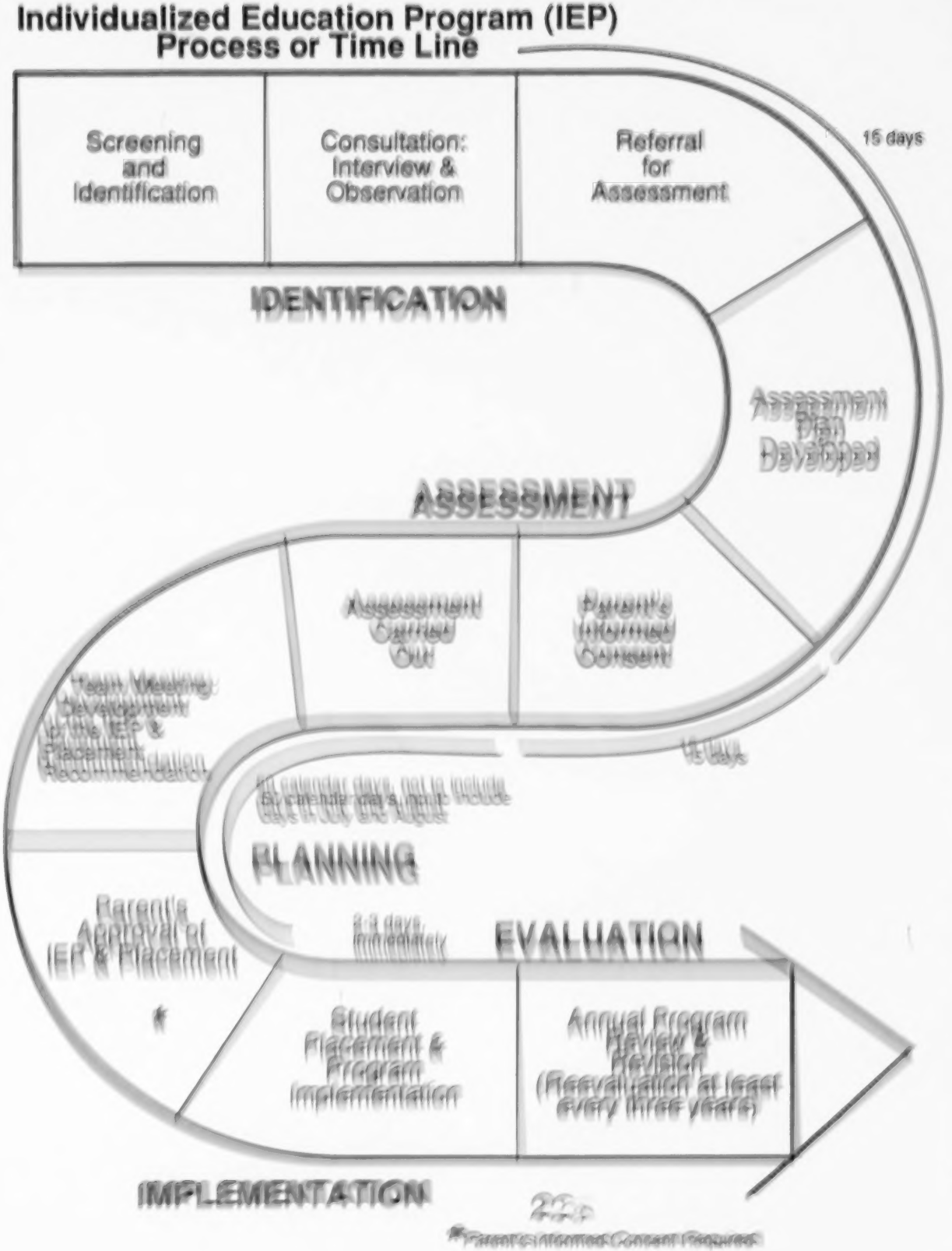
5. Parents must receive a full explanation from the school of all of the procedural safeguards provided by the law.

6. Parents have the right to participate in the meeting when their child's educational program is developed.

7. Parents have the right to an impartial hearing if they disagree with the decision of the school. The school also have the right to request a hearing.

8. Parents and schools have certain rights in hearing procedures.

Overhead


Individualized Education Program (IEP)
Process or Time Line
Screening and Identification
Consultation: Interview & Observation
Referral for Assessment
15 days
IDENTIFICATION
Assessment Plan Developed
ASSESSMENT
Assessment Carried Out
Parent's Informed Consent
Team Meeting: Development of the IEP & Placement Recommendation
15 days
60 calendar days, not to include days in July and August
PLANNING
Parent's Approval of IEP & Placement
5 days immediately
EVALUATION
Student Placement & Program Implementation
Annual Program Review & Revision (Reevaluation at least every three years)
IMPLEMENTATION
* Parent's Informed Consent Required

Overhead

Placement Options/ Least Restrictive Environment Process

The "most important appropriate education placement" for specific individuals with exceptional needs is the result of the process to implement education in the least restrictive environment. It is the ongoing decision-making process based on a collaborative determination and examination of the individual's needs. The process allows for the appropriate placement of the individual to be designed specifically for that individual, considering and using the full array of program options and in a setting where needed services can be provided effectively and efficiently.

POLICY MEMORANDUM

California Department of Education

Special Education Division

TOPIC Parent/School Partnership

POLICY NUMBER #1

DISSEMINATION DATE March 1991

APPROVED BY Patrick Campbell

Assistant Superintendent/Director of Special Education

Parent/School Partnership

INTRODUCTION

The purpose of this Policy Memorandum is to recognize, support, and advocate the benefits of parent and school partnerships. Parents play a leading role in assisting in the development and implementation of their child's educational program. Consistent family support of the school's curriculum goals leads to increased student success.

The California State Board of Education recognizes and supports parent and school partnerships through its adoption of the Parent Involvement Education Policy (formally titled and amended). The Special Education Division supports the State Board of Education's recognition that a child's education is a responsibility shared by the school and family throughout the child's educational program.

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POLICY STATEMENT

It is the policy of the Special Education Division to promote activities designed to enhance the partnership between parents and schools. Parent participation is encouraged in the development, implementation, and evaluation of individual educational programs.

The Special Education Division advises that this policy be implemented based on the adoption of five effective practice statements and a selection of guiding principles.

Statement of Content:

Effective practice statements describe the California Education Code. These statutes authorize meaningful parent participation in the decision-making process and during the delivery of special education and related services.

Effective practice statements are basic tenets from which parent activities are generated. Each effective practice statement is followed by an (a) Education Code Summary, (b) Education Code reference, and (c) effective practice recommendations. Effective practice recommendations serve a two-fold purpose: (1) to suggest effective practice activities in a non-mandated format, and (2) to include those mandated activities which greatly influence parent and school partnerships.

Guiding principles are a series of statements believed to directly enhance and reinforce the concept of parent and school partnerships.

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Effective Practice Statement I: Maximum parent participation is encouraged.

- **Education Code Summary:** The Superintendent of Public Instruction encourages the maximum practicable involvement of parents of children enrolled in special education programs.
- **Education Code Reference:** Education Code § 56126.
- **Effective Practice Recommendations:**

1. Parents participate as partners; meaning they are collaborators, problem solvers, co-decision makers, advisers, implementers, and supporters.
2. Educators recognize that the strength and quality of parent involvement activities are oftentimes determined by the attitudes and behavior of the local educational staff.
3. Educators recognize that parent participation is encouraged when efforts are made by the local education agency to determine, acknowledge, and implement activities with the focus of satisfying the needs of families.
4. Local education agencies ensure representation of the cultural diversity of their community through the provision of interpreters, translated materials, and activities appropriate to the cultures represented.
5. Parents participate in a number of ways: serve as school volunteers and room parents; attend field trips, parent conferences, individualized education program (IEP) meetings; be involved in off-campus or after-school activities; conduct or attend parent education activities; review and provide advice about proposed policies and curriculum; attend social, sport, and student performance events.
6. Parents are involved in the process of instructional staff recruitment.
7. Parents participate on committees such as: the community advisory committee (CAC), the School Improvement Program (SIP), state level advisory groups, and other creative local school site committees such as the school integration committee, interagency advisory committee, and the curriculum development committee.
8. Parents participate in school functions such as school board meetings, school board membership, parent teacher association (PTA), and special projects (for instance: clubs, extra-curricular activities, mentor teacher projects, and after school projects).
9. Parents and educators frequently communicate experiences through telephone and written communication as well as home and school visits.
10. The local education agency conducts periodic parent meetings to inform and to solicit concerns and recommendations from parents.
11. Parents attend individual parent/special education teacher conferences which include appropriate designated instruction and services staff arranged by local education agencies twice a year.
12. Parents may choose to become their child's case manager in order to coordinate activities with the local education agency and other agencies to the appropriate extent possible.
13. Educators provide activities and strategies for parents to assist their child at home.
14. Parents support the achievement of instructional objectives by implementing home/school strategies, and by providing materials, space, and time for their child to learn at home.
15. Local education agency personnel and parents are involved in addressing systemwide needs and issues of students such as those involving health, nutrition, child abuse, and after school child care.
16. Local education agency personnel and parents are involved in addressing systemwide needs of districts such as: transportation scheduling, school closure or movement issues, textbook adoption and review, and discipline procedures.
17. Parents may participate in local and statewide advisory councils such as the community advisory committee (CAC), California Advisory Commission on Special Education, and the Comprehensive System of Personnel Development Advisory Committee (CSPDAC).

Effective Practice Statement II: Parents participate in the planning process with the school community.

■ **Education Code Summary:** Parents participate as members of the community advisory committee (CAC). The CAC shall have the authority and fulfill the responsibilities that are defined for it in the local plan. Parent responsibility includes, yet is not limited to: (a) advising the local education agency regarding the development, amendment, and review of the local plan, (b) recommending annual priorities to be addressed in the plan, (c) assisting in parent education and in recruiting parents and other volunteers who may contribute to the implementation of the plan, (d) encouraging community involvement in the development and review of the local plan, (e) supporting activities on behalf of individuals with exceptional needs, and (f) assisting in parent awareness of the importance of regular school attendance.

■ **Education Code Reference:** Education Code §§ 56190 — 56194 and §§ 56220, 56222.

■ **Effective Practice Recommendations:**

1. CAC meetings are held in geographically accessible and barrier free locations throughout the special education local plan area (SELPA) region.
2. The CAC meets on a regular basis throughout the school year at times which enable parent attendance.
3. An agenda and minutes of meetings are recorded and sent to CAC members, appropriate local education agency staff, and listed interested parties.
4. Parents, including those whose children attend nonpublic schools or receive special education services out of district, are informed of CAC activities, for example, by notices, newsletters, and handbooks.
5. Local education agencies involve parents in regular/special education issues regarding the entire school community through activities including program quality reviews, leadership teams, student study teams, and exemplary program identification.
6. CAC parent representation is obtained from throughout the SELPA and represents a variety of handicapping conditions and age ranges and reflects the ethnic, cultural, and socioeconomic diversity of the student enrollment whenever possible.
7. CACs sponsor parent training activities.
8. Openings for representation on the CACs are widely advertised and outreach is done to encourage participation.
9. The local education agency provides inservice training about CAC roles and responsibilities, enhancing the productivity/capability of a CAC.

*10. The governance structure of the SELPA provides for incidental expenses of the CAC. [Education Code § 56780.(a)(13)]

** Mandated Item*

Effective Practice Statement III: Local education agencies shall ensure that positive efforts are made to involve parents in the design and implementation of staff development activities.

■ **Education Code Summary:** In the control language that authorizes the use of Public Law 94-142 funds for staff development, the California State Legislature has placed specific language that requires a parent education component in each special education local plan area (SELPA) plan.

■ **Education Code Reference:** Education Code §§ 56220(c)(2), 56240 — 56243. In addition, the current Budget Act includes language which requires a parent training component in the local staff development plan.

■ **Effective Practice Recommendations:**

1. Local education agencies make positive efforts to ensure the involvement of parents whose children receive special education when developing staff development programs.
2. Parents provide input to local education agencies regarding the allocation of staff development resources.
3. The importance and development of parent "support groups" is recognized and encouraged.
4. Local education agencies and parents utilize the concept of parent/professional collaboration when providing staff development activities.
5. Parents assist in the review of staff development plans and make recommendations about the appropriateness and sensitivity to issues of concern for parents and families.
6. Parent education activities encompass the needs of all students with handicapping conditions from all cultural, language, and socioeconomic communities served by the local education agency/SELPA.
7. Parent education and involvement activities are provided in a manner which meets the needs of the communicative mode or language of the family, and are culture specific to the family.
8. Parents whose child receives special education and/or related services and is transitioning into, through, and beyond special education programs are provided with ongoing education, information, and support during each change period.
9. Consideration is given to using trained parent facilitators as a component of an effective parent staff development plan.
10. Information and training activities are held in geographically accessible locations throughout the SELPA region.
11. Parents whose child receives special education and/or related services outside the local education agency are invited and encouraged to participate in local school site parent activities.

Effective Practice Statement IV: Provide parents with procedural safeguards.

■ **Education Code Summary:** Parents and students with exceptional needs have certain legal rights. Federal and state statutes and regulations provide parents and students with disabilities numerous procedures to protect these rights. These procedures include:

1) Due process procedures for parents and children,

2) Protection in assessment procedures,

3) Least restrictive environment procedures, and

4) Confidentiality of information procedures.

California Education Code § 56501 extends due process procedures to the parent, student, and public education agency.

■ **Education Code Reference:** Education Code §§ 56500 — 56507.

■ **Effective Practice Recommendations:**

1. Local education agencies provide parents with information about special education and related services and procedures, at least annually.
2. Local education agencies and parents ensure that a systematic communication process is in place at each school site for parents and educators to use, particularly if a problem arises.

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* 3. Local education agencies provide information regarding the parents' and pupils' rights, including procedural safeguards, in an understandable format and in the primary language or other communicative mode of the parent. [Education Code § 56506(a)]

* 4. Public education agencies shall notify individuals, agencies, and organizations of their right to file a complaint and the procedures for implementation and provide an individual notice to parents and guardians in their primary language or other mode of communication at least annually in conjucntion with normal notification procedures. [Title 5 California Code of Regulations (CCR) Section § 3081(a)(1)]

* 5. Public education agencies provide prior notice to parents of children with disabilities when the public agency: (1) proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free public education of the child, or (2) refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education. In addition, (1) no assessment shall be conducted unless the written consent of the parent is obtained prior to the assessment unless the public education agency prevails in a due process hearing relating to assessment, and (2) no pupil shall be required to participate in all or part of any special education program unless the parent is first informed, in writing, of the facts which make participation in the program necessary or desirable, and of the contents of the individualized education plan, and after such notice, consents, in writing, to all or part of the individualized education program. [34 Code of Federal Regulations (CFR) § 300.504, Education Code §§ 56321(c), 56346]

* 6. When providing notice under Reg. 300.504, public agencies must include the following: (1) a full explanation of all procedural safeguards; (2) a description of the action proposed or refused by the agency, an explanation of why the agency proposes or refuses to take action, and a description of any options the agency considered and the reasons why those options were rejected, (3) a description of each evaluation procedure, test, record, or report the agency uses as a basis for the proposal or refusal, and (4) a description of any other factors which are relevant to the agency's proposal or refusal. The notice must be written in a language understandable to the general public and provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible. If the native language or other mode of communication of the parent is not a written language, the State or local educational agency shall take steps to ensure: (1) that the notice is translated orally or by other means, and (2) that the parent understands the content of the notice. [34 Code of Federal Regulations (CFR) § 300.505]

* 7. Local education agencies provide parents with the types of documentation included in a pupil's confidential file, where the file is located, and parent access information. [Education Code § 49063]

** Mandated Item*

Effective Practice Statement V: Parents are participants in the identification and referral, assessment, instructional planning, implementation, and review of the individualized education program (IEP) process.

■ **Education Code Summary:** Parents are involved throughout the IEP process including the approval of the assessment plan, eligibility determination, and implementation of the IEP. Parents participate as members of the IEP team, provide consent, and participate in the review of the IEP. Parents are afforded procedural safeguards throughout this process.

■ **Education Code Reference:** Education Code §§ 56300 — 56381.

■ **Effective Practice Recommendations:**

1. Parents are informed of modifications to the regular education program prior to the child's referral to special education.
2. Local education agency staff and parents share involvement and responsibility for the acquisition and validation of assessment information.

*3. Local education agencies provide interpreters for parents requiring translation during the IEP process. [34 Code of Federal Regulations (CFR) § 300.345.(e)]

4. Parents are informed of the continuum of program options at the IEP meeting.

*5. The IEP team develops goals and objectives followed by the determination of service in the least restrictive environment. [Education Code § 56345]

6. IEP team members are knowledgeable of the IEP team consensus process when reaching agreement.

7. Parents assist in the implementation of the IEP in the home, community, and when appropriate, the school site.

*8. Parents take part in the annual IEP review and participate in the planning of IEP goals and objectives. [Education Code § 56343(d)]

*9. It is the intent of the Legislature that pupils be transferred out of special education programs when special education services are no longer needed. [Education Code § 56001.(h)]

10. Parents and educators plan appropriate exit criteria when special education services are no longer needed.

* *Mandated Item*

Implementation/Guiding Principles

■ **The Special Education Division recommends this policy be implemented by employing the following guiding principles:**

1. When implementing parent/school partnerships, sensitivity and respect for the ethnic, cultural, linguistic, and socioeconomic diversity which characterizes the population of California are considered.
2. Local education agencies recognize that educators may need to initiate contact with parents in order to familiarize the family with the concept of a shared parent/school partnership.
3. Local education agencies acknowledge the need to look outside tradition when scheduling parent/school activities, and consider alternative times and meeting places.
4. The community culture may require that educators acknowledge a definition of "parent" which embraces others participating in parent related activities such as extended family members, adult siblings, primary caregivers, surrogate parents, foster parents, and significant others.
5. Parents and educators share the responsibility for continually updating their knowledge and skills through participation in training activities, information seminars, and through other methods of acquiring knowledge.
6. Parents are responsible for providing for the basic health and safety of the child, child rearing, and instilling a value of the education process in the child.
7. Parents and educators acknowledge, trust, and regard each other as an integral part of the parent/school partnership.
8. Parents and educators respect each other's perspective and contributions regarding the educational experience of the child.
9. Educators respect the individual degree and level of each parent's involvement.
10. Accurate and appropriate information is a shared need by educators and parents.
11. Parents and educators support family-centered services.

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CONCLUSION

This Policy Memorandum advocates parent and school partnerships by issuing a policy statement which includes a set of effective practice statements and guiding principles.

These statements are not meant to be all inclusive. Instead, this memorandum contributes to an existing body of knowledge which provides a basis for the continuing support of parent and school partnerships.

By increasing the opportunity to encourage collaboration between parents and school district personnel, there is a greater likelihood of advancing effective educational services provided in the home, school, and community.

DEPARTMENT CONTACT

For additional information contact your regional special education consultant or the Program Assistance and Compliance Resolution Unit at 916/445-3561 or 213/620-2151.

NOTICE

The guidance in this Parent/School Partnership Policy Memorandum is not binding on local education agencies or other entities. Except where statutes, regulations and court decisions that are referenced herein, this Parent/School Partnership Policy Memorandum is exemplary and compliance with it is not mandatory.
(See Education Code § 33308.5)

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PART 6: RESOURCES

State and national agencies, organizations and periodicals

AGENCIES AND ORGANIZATIONS

National Agencies, Organizations

Beach Center on Families and Disability, Bureau of Child Research, University of Kansas, 913/864-7600

National Association for the Education of Young Children (NAEYC), 202/232-8777

National Down Syndrome Congress, 800/232-NDSC, or 213/382-7750

National Information Center for Handicapped Children & Youth, (NICHCY), 800/999-5599.

National Institute on Mental Health (NIMH), 301/443-3600

National Learning Disabilities Network, 313/648-2125

National Special Education Alliance (NSEA), Apple Computer, Inc., 415/540-5676

Office of Special Education Programs (OSEP), 202/732-1007

Research and Training Center to Improve Services for Seriously Emotionally Handicapped Children and Their Families, Regional Research Institute for Human Services, Portland State University, 503/464-4040

State Agencies, Training Projects

Department of Developmental Services, Dennis G. Amundson, Dir., 916/654-1897; **Early Intervention Program,** Julie Jackson, Asst. Deputy Dir., 916/654-2773

Department of Education: Special Education Division, Patrick Campbell, Dir., 916/657-3567, **State Special Schools,** John I. Flores, Dir., 916/657-3270

Department of Health, California Childrens Services, Dr. Maridee Gregory, Dir., 916/654-0499

Department of Mental Health, William Mayer, Dir., 916/654-2309

Child & Adolescent Services System Program (CASSP) Family Network, 916/654-2147

Department of Rehabilitation, William Tainter, Dir., 916/445-3971

Office of Child Development and Education, Maureen DiMarco, Sec., 916/323-0611

CSUS Special Projects

Resources in Special Education (RiSE), 916/641-5925

Personnel Developmental for Infant Preschool Programs (PDIPP), 916/641-5920

Training & Resources for Community & Curriculum Integration (TRCCI), 916/641-5930

Positive Behavior Change (PBC), 916/641-5930

Special Education Innovation Institute (SEII), 916/641-5855

California Deaf/Blind Services, 916/641-5855

Workability I, 916/323-0938

Transition Partnership Project (TPP), 916/323-1010

Parent Training & Information Centers:

Team of Advocates for Special Kids (TASK), 714/533-8275. Staffed by and for parents of children with disabilities. Provides training, support and inservice promoting parent and education partnership, parent support groups, awareness programs for children, training/ information center and computer lab.

Northern California Coalition:

MATRIX, 415/499-3877. Support network for families of children with disabilities and special needs to improve the quality of life for these children. MATRIX has undertaken to strengthen the supportive/advocacy role of parents by offering support, information, and training.

Parents Helping Parents (PHP), 408/288-5010. A family resource center of parents, professionals and lay counselors which provides education, IEP training, information and referrals, support, workshops for parents and professionals, rap sessions and siblings program.

The Disability Rights Education and Defense Fund (DREDF), 415/644-2555. Provides legal support and advocacy to change policies and attitudes which prevent people with disabilities from participating in the mainstream.

Parent/Professional Organizations

Advisory Commission on Special Education, 916/657-3569

Autism Society of California, 916/441-1243

CAL-TASH (The Association for Persons with Severe Handicaps), 213/395-4866

California Association for Parents of Visually Impaired, 408/356-6515

California Association of Private Specialized Education and Services (CAPSES), 916/447-7061

California Association for Retarded Citizens (ARC-CA), 1/800/698-6619

California Speech, Language, and Hearing Association (CSHA), 916/921-1568

California Special Education Alliance, 209/454-0982 or 209/822-2747

California State Council on Developmental Disabilities, 916/322-8481

California State Federation/Council for Exceptional Children (CSF/CEC), 805/832-3731

Community Alliance for Special Education (CASE), 415/928-2273

Epilepsy Society, Bay Area, 510/893-6272; **Los Angeles Area**, 213/382-7337

Fiesta Educativa, 213/221-6696

Independently Merging Parent Association of California - Together for the Hearing Impaired (IMPACT-HI), 415/895-2430

Learning Disabilities Association of California, 415/383-5242

Low Incidence Disability Advisory Committee, (LIDAC), 510/794-3998

Mental Health Association in California, 916/441-4627

Organization of Area Boards on Developmental Disabilities, 916/323-0750

Organization of Mental Health Advisory Boards, 916/442-8342

Orton Dyslexia Society, 301/296-0232

Protection & Advocacy, Inc., 800/776-5746

Special Education Community Advisory Committee Network of California, (SECACNOC), 714/778-0457

United Cerebral Palsy of CA, 916/442-3573

MATERIALS

Journals, Periodicals

En Contacto, Con El Sindrome Down - Down Syndrome Parents' Group, Inc., 6350 Laurel Canyon Blvd., #429, North Hollywood, CA 91606

Exceptional Parent Magazine, 605 Commonwealth Ave., Boston, MA 02215

Family Support Bulletins, UCPA Governmental Activities Office, 1522 K Street, NW, Ste 1112., Washington, DC 20005

ICC Newsletter, Kaleidoscope, Interagency Coordinating Council, c/o Ellen Hunt, ICC, P.O. Box 5273, Santa Barbara, CA 93108

reSources, California Deaf/Blind Services, 650 Howe Ave., Suite 300, Sacramento, CA 95825, 916/641-5855

The Special EDge, 650 Howe Ave., Suite 300, Sacramento, CA 95825, 916/641-5925

Network News, National Network of Parent Centers, 312 Stuart Street, 2nd Floor, Boston, MA 02116

News Digest, National Information Center for Children and Youth with Handicaps (NICHCY), P.O. Box 1492, Washington, D.C. 20013, (800) 999-5599

OSERS News in Print, Office of Special Education and Rehabilitative Services, Room 3129, Switzer Bldg., 330 C Street, S.W., Washington, D.C. 20202-2524, (202) 732-1723

Sibling Information Network, Connecticut's University Affiliated Program on Developmental Disabilities, 991 Main Street, East Hartford, CT 06108, (203) 282-7050

Federal Resources

Individuals With Disabilities Education Act, National Association of State Directors of Special Education. (1991). 80 pp. $15.00. 703/519-3800

Public Law 93-112, Section 504 of the Rehabilitation Act of 1973, Rules governing nondiscrimination on the basis of handicap in programs receiving federal funds. FREE. Office of Civil Rights. 415/556-7000

Public Law 101-476 Overview of the "Individuals with Disabilities Education Act," Office of Special Education and Rehabilitative Services. (1991). $1.50. 202/783-3238

CDE Resources

California Special Education: A Composite of Laws, California Department of Education (CDE), Sacramento. (1991) 236 pp. FREE 916/657-5458

Child and Parental Rights in Special Education, CDE, Sacramento. Also in Spanish (1988) FREE Brochure. 916/445-1260

Parents and Schools Make a Difference! CDE, Parenting and Community Education, Sacramento. (1989) FREE Brochure. 916/323-0548

Parent/School Partnership-Policy Memorandum, CDE, Special Education Division, Sacramento. (1991). 10 pp. FREE 916/657-2534

Parents Are Teachers, Too, CDE, Sacramento. (1984) FREE Brochure. 916/445-1260

Students' Rights and Responsibilities Handbook, CDE (1986). 24 pp. $2.75. 916/445-1260

RiSE Resources

650 Howe Ave., Suite 300, Sacramento, CA 95825, 916/641-5925

The California Strategic Plan for Special Education

Special Education Division. Comprehensive look at programs and services offered to individuals with exceptional needs and targets elevens areas for improvement. 35 pp. $4.00.

Community Advisory Committee Guidelines

The Special Education Community Advisory Committee Network of California with S. Westaby. (1988). (2nd edition). The Community Advisory Committee involves the community in active participation to develop, amend, and review local plans for special education. 81 pp. $15.00.

Cooperative Activities for Home: Parents Working With Teachers to Support Cooperative Learning

A. Holm, D. Schultz, P. Winget & L. Wurzbach. Booklet explains cooperative learning and gives direction for structuring everyday activities. Provides specific activities to use at home. 60 pp. $6.00.

Educators and Parents Working Together to Develop Special Education Parent Support Groups

M. A. Duganne, M. Ferrara, & T. Justice. How to create successful special education parent support groups. Describes what a school/agency parent support group is, how it works, and benefits to parents and school systems. 43 pp. $6.00.

Parent Professional Training Modules

Training modules focus on activities that build skills, collaboration, and resources. Core modules packaged together include: Community Advisory Committee (CAC) Leadership training, Communication Skills, An Effective CAC, Individualized Education Program Process: Rights and Responsibilities, Parent Professional Collaboration. $20.00. *Additional Modules $5.00 each.* • Computers & Students with Special Needs • Socialization & Sexuality for Developmentally Disabled • Coping with Loss & Change • Stress & Support in the Family • Interagency Collaboration: The Parent's Role • Training for Professionals Working With Families • Parent Professional Collaboration in Planning for Employment • Placement in the LRE • Parent Support Groups • Transition Planning • Parental Involvement

Parents as Managers: Was This Part of the Job Description?

The California Department of Education and Mendocino Community Advisory Committee. Teleconference describes roles of parents and CACs. Offers state/national resources to empower parents. Videotape (vhs) 2 hrs. $25.00.

Special Child, Special Rights

Resources in Special Education. Explains the IEP (Individualized Education Program), its process, rights and responsibilities of parents. Videotape, (vhs) 26 min. $20.00.

Tutoring Your Child

J. Cohn. Easy-to-use guide on how to tutor you child in reading, spelling and math. Tips on how to make your home and neighborhood a learning experience. 22 pp. $2.00. also in Spanish

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Materials from Other Sources

California Childrens Services

Office of Protection and Advocacy, Sacramento, CA. Available in English, Spanish, Korean, Vietnamese. $1.50. 800/776-5746

Families of Handicapped Children: Needs and Supports Across the Lifespan

Fewell, R., Meyer D. and Vadasy, P. Pro-Ed, Austin, TX. (1986). 512/451-3246

Four Critical Junctures

National Center for Clinical Infant Programs (NCCIP), Washington, D.C. Free brochure on family focused service guidelines. 703/528-4300

A Guide for Parents to the Individualized Education Program

PACER (Parent Advocacy Coalition for Educational Rights) Center. One of 120 items developed by parents of children with disabilities. $2.00. 612/827-2966

Guidelines and Recommended Practices for the Individualized Family Service Plan

National Early Childhood Technical Assistance Services, Chapel Hill North Carolina. (1989). $13.00. 919/962-2001

H.E.L.P. Manual

Northern California Coalition for Parent Training and Information. (1990). Provides detailed information about developing goals and objectives for an IEP meeting. Includes overview of pertinent special education laws. $7.50. 415/499-3877

Parents Speak Out: Then and Now

Turnbull, A.P. & Turnbull, H. R. (Eds) 1985. (2nd Edition). Charles E. Merrill Publishing, Columbus, OH. 800/428-3750

Rights Under the Lanterman Act

Office of Protection and Advocacy, Sacramento, CA Rights of families with the regional center system. $2.75. 800/776-5746

Special Education in California: A Comprehensive Program to Service All Individuals with Disabilities Special Education Rights and Responsibilities

Community Alliance for Special Education (CASE). (1991). $20.00. 415/928-2273

TOLL-FREE AGENCY PHONE NUMBERS

American Association on Mental Retardation	(800) 424-3688
American Council of the Blind	(800) 424-8666
American Diabetes Association	(800) 232-3472
American Foundation for the Blind	(800) 232-5463
AT&T National Special Needs Center	(800) 833-3232
California Self-Help Center (UCLA)	(800) 222-5465
Captioned Films for the Deaf	(800) 237-6213
Consumer Hearing and Speech Helpline	(V/TDD) (800) 638-8255
Crisis Line for the Handicapped	(800) 426-4263
Project & Advocacy	(800) 776-5746
Epilepsy Foundation of America	(800) 332-1000
Hearing Aid Hotline	(800) 521-5247
HEATH (Higher Education and the Handicapped) Resource Center	(800) 54-HEATH
IBM Special Needs Information Referral Center	(800) 426-2133
Job Accommodation Network	(800) 526-7234
Job Opportunities for the Blind	(800) 638-7518
National Office of the American Council for the Blind	(800) 424-8666
National Association for Parents of the Visually Impaired	(800) 562-6265
National Child Abuse Hotline	(800) 4-A-CHILD
National Committee for Citizens in Education	(800) NET-WORK
National Committee for Citizens in Education (Spanish)	(800) LE-AYUDA
National Down Syndrome Congress	(800) 232-6372
National Down Syndrome Society	(800) 221-4602
National Easter Seal Society	(800) 221-6827
National Head Injury Foundation	(800) 444-NHIF
National Health Information Clearinghouse	(800) 336-4797
National Information Center on Children and Youth with Handicaps (NICHCY)	(800) 999-5599
National Information Clearinghouse for Infants with Disabilities and Life Threatening Conditions	(800) 922-9234
National Information Center for Orphan Drug and Rare Diseases	(800) 456-3505
National Organization for Rare Disorders (NORD)	(800) 447-6673
National Rehabilitation Information Center	(V-TDD) (800) 34-NARIC
National Special Needs Center	(800) 824-8533
Orton Dyslexia Society	(800) 824-8533
Protection and Advocacy, Inc.	(800) 776-5746
Social Security Administration	(800) 234-5772
Spina Bifida Hotline	(800) 621-3141
The ARC (Association for Retarded Citizens of the U.S.)	(800) 433-5255

FAMILY RECORD KEEPING

You are a valuable resource regarding your assigned student and his/her disability. You may have contact with a wide variety of professionals and service agencies, and, as the primary decision maker, observer, and advocate for your assigned child, it is to your benefit to maintain complete and up-to-date records. Each time you seek services for your child, you may be asked to supply specific information.

A good way to keep the information organized is to use a loose-leaf binder with tabbed dividers arranged around the following topics:

Family History:
Include the name, birth date, and place of birth of family members; parents' name, address, phone number, place of employment, and so forth; and a brief health history of parents, siblings, grandparents, aunts, and uncles.

Developmental history of the child:
Include the mother's health during pregnancy and any unusual circumstances at the birth of the child. Keep developmental records of when your child first crawled, walked, talked, fed self, dressed self, and so forth. Also, record information regarding your child's behavior patterns.

Medical history and reports:
Include your child's health history, names and addresses of doctors, insurance information, dates and nature of serious illnesses and operations, a record of your child's immunizations, medications taken, and a copy of your child's birth certificate.

Educational history:
Include the names and dates of schools your child has attended; names of teachers and principals or other staff who provided services for your child; copies of your child's IEPs, assessment reports, therapy reports, and progress reports; and examples of (dated) schoolwork.

Personal/social history:
List your child's interests, membership in clubs and organizations, attendance at camps, special awards received, and photographs.

Chronology of action:
Copies of records from other agencies with which you have had contact.

Copies of letters you have written or received regarding your child's disability and needs.

A log of phone calls or visits with agencies or professionals: Include dates, names, phone numbers, and the purpose and outcome of such contacts.

Record keeping is not mandatory for parents of children with disabilities, but you may find it useful to bring your up-to-date notebook to all meetings with school, medical, or community agency personnel.

PART 7: GLOSSARY

SPECIAL EDUCATION ACRONYMS

APE	Adapted Physical Education
AB	Assembly Bill (state legislation), Adaptive Behavior
ADD	Attention Deficit Disorder/Auditory Discrimination in Depth Program
ADHD	Attention Deficit Hyperactivity Disorder
ADE	Average Daily Enrollment
BD	Behavior Disorder
CA	Chronological Age
CAC	Community Advisory Committee; California Administrative Code
CBA	Curriculum-Based Assessment
CBE	Children with Behavioral and Emotional Difficulty
CBI	Community-Based Instruction
CBM	Curriculum-Based Measurement
CCS	California Children Services
CDE	California Department of Education
CFR	Code of Federal Regulations
CH	Communicatively/Communication Handicapped
COE	County Office of Education
DB	Deaf/Blind
DC	Development Center
DHH	Deaf and Hard of Hearing
DIS	Designated Instruction and Services
EC	Education Code (state)
EHA	Education of the Handicapped Act (PL 94-142)
ESL	English as a Second Language
ESY	Extended School Year
FAPE	Free Appropriate Public Education
FES	Fluent English Speaker
FTE	Full-Time Equivalent
FY	Fiscal Year
HI	Hearing Impaired
HOH	Hard of Hearing

HH	Hard of Hearing
ICF	Intermediate Care Facility
IEP	Individualized Education Program
IEPT	Individualized Education Program Team
IFSP	Individualized Family Service Plan
IHE	Institute of Higher Education (or institution)
IHP	Individualized Habilitation Plan
IIP	Individualized Implementation Plan
ILS	Individual Learning Plan
IPI	Individually Presented Instruction
IPP	Individual Program Plan (used in other agencies)
IPSU	Instructional Personnel Services Unit (fiscal term)
IQ	Intelligence Quotient
ISP	Individual Service Plan
ITP	Individualized Treatment Plan; Individualized Transition Plan
IWEN	Individual With Exceptional Needs
IWRP	Individual Written Rehabilitation Plan
LCI	Licensed Children's Institution
LD	Learning Disabled; Learning Disability
LEA	Local Education Agency
LEP	Limited English Proficient
LES	Limited English Speaking
LH	Learning Handicapped
LPA	Local Plan Area (or Local Planning Area)
LRE	Least Restrictive Environment (usually meaning educational environment)
LSH	Language, Speech and Hearing
LSS	Language and Speech Services
MA	Mental Age
MGM	Mentally Gifted Minor
MH	Multiply Handicapped
MR	Mental Retardation

MS Multiple Sclerosis
MTU Medical Therapy Unit
NEP Non-English Proficient
NPS Nonpublic School
OH Orthopedically Handicapped
OHI Other Health Impaired
OI Orthopedically Impaired
OMH Other Multihandicapped
OSEP Office of Special Education Programs (U.S.)
OSERS Office of Special Education and Rehabilitative Services (U.S. Department of Education)
OT/PT Occupational Therapy/Physical Therapy
PE Physical Education
PH Physically Handicapped
PKU Phenylketonuria
PL Public Law
PT Physical Therapy/Precision Teaching
PTA Parent Teacher Association
ROC Regional Occupational Center
ROP Regional Occupational Program
RS Resource Specialist
RSP Resource Specialist Program
RT Recreational Therapist; Recreational Therapy
SB Senate Bill (state legislation)
SD Standard Deviation
SDC Special Day Class
SDE State Department of Education
SDL Severe Disorder of Language
SE Standard Error
SEA State Education Agency
SEACO Special Education Administrators of County Offices
SED Seriously Emotionally Disturbed; Special Education Division (CDE)

SELPA	Special Education Local Plan Area
SH	Severely Handicapped
SIP	School Improvement Program
SLD	Specific Learning Disability
SLH	Speech, Language, Hearing
SM	Socially Maladjusted
SPI	Superintendent of Public Instruction
S-R	Stimulus-Response
SSC	School Site Council
SSI	Supplemental Security Income
SSPI	State Superintendent of Public Instruction
SSS	State Special Schools
SST	Student Study Team
TB	Tuberculosis
TDD	Telecommunication Device for the Deaf
TTY	Teletypewriter (connected to a telephone)
USC	United States Code
VE	Vocational Education
VH	Visually Handicapped
VI	Visual Impairment,Visually Impaired

TERMINOLOGY

The following is a list of terms used in specialized areas, such as education, psychology, and medicine. The short definition of these words included here will hopefully be helpful to parents when reading reports, attending meetings or conferences, and/or talking with specialists who have contact with the child.

Academic: Refers to subjects such as reading, writing, math, social studies, and science.

Access: A personal inspection and review of a record, an accurate copy of a record, an oral description or communication of a record, or a request to release a copy of an educational record.

Advocate: A person who represents and provides support to parents of children with disabilities.

Affective: Pertains to feelings or emotions.

Annual Review: A scheduled meeting of the IEP team on at least an annual basis to review, revise, and update the IEP.

Aphasia: A weakening or loss of the ability to send and/or receive verbal and/or written messages; not connected with diseases of the vocal cords, eyes, or ears.

Appeal: An integral part of the due process and complaint procedures. If the party filing a complaint disagrees with the findings, the party may give input at the local Board presentation of findings or request review of the findings by the State Superintendent of Instruction. A parent or district that disagrees with a due process decision may appeal that decision through the court of appropriate jurisdiction.

Appropriate Education: "Appropriate Education," as in "free, appropriate, public education," is an educational program and/or related service(s) as determined on an individual basis which meets the unique needs of each individual with exceptional needs. Such an educational program and related service(s) are based on goals and objectives as specified in an IEP and determined through the process of assessment and IEP planning in compliance with state and federal laws and regulation. This educational program provides the equal opportunity for each individual with exceptional needs to achieve commensurate with the opportunity provided to other pupils.

Aptitude test: A test which measures someone's capacity, capability, or talent for learning something.

Assessment/evaluation: Assessment encompasses all those functions in the testing and diagnostic process leading up to development of an appropriate, individualized educational program and placement for a child with exceptional needs. Assessment may include screening to identify potentially (i.e., high probability) handicapped children; the observation, testing, and diagnosis of those children to specifically identify each child's handicapping conditions and the severity of that condition; interviews; and the definition of educational needs based on handicapping conditions and learning profile.

Attention span: The extent to which a person can concentrate on a single task (sometimes measured in length of time).

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Audiogram: A graph showing the range of hearing. Hearing sensitivity for air and bone conducted sounds may be shown on the graph.

Audiological exam: Related to a test of a person's hearing ability.

Audiologist: A person who identifies and measures hearing loss and helps in the rehabilitation of those with hearing impairments.

Audiology: The study of hearing and hearing disorders.

Auditory comprehension: The ability to understand what one hears.

Auditory discrimination: The ability to detect subtle differences among sounds in words (tap-cap; cap-cop).

Auditory memory: The ability to remember what is heard (words, numbers, stories). This includes both short- and long-term memory.

Auditory perception: The ability to receive sounds accurately and to understand what they mean.

Behavior modification: A procedure that is based on the belief that all behavior is learned and therefore can be unlearned (changed). One must decide the specific behavior to be changed and decide on a definite plan for accomplishing that goal.

Behavioral objectives: Objectives which are written to describe what a child will be able to do as a result of some planned instruction. Behavioral objectives are usually interpreted as objectives that can be measured in some definitive or quantitative way, e.g., given a list of ten (10) three-letter words, Johnny will orally read eight of the ten (10) words correctly within 90 seconds.

Body image: An awareness of one's own body and the relationship of the body parts to each other and to the outside world.

California Code of Regulations (Title 5): State administrative regulations which are supplemental to California Education Code and sections and federal law and regulations dealing with special education.

California Master Plan for Special Education: A document adopted January 11, 1974, by the California State Board of Education which includes philosophies, goals, and guidelines for planning more comprehensive services for all individuals identified as having exceptional needs.

Case Carrier/Case Coordinator: The professional assigned to coordinate a referral for possible special education placement. The person is responsible for processing the child's referral from the preassessment parent conference through the development of the IEP, and may provide follow-up services while the child is served in a special education program.

Chapter 26.5 of the Government Code: This chapter requires CCS, public mental health agencies, and local education agencies to coordinate the provision of services to students with disabilities.

Clinical observations: Opinions about or interpretations of behavior made by the person assessing the student which are based on professional experience and expertise. The interpretations may relate to behaviors not tested directly during the assessment—such as "fear of failure" or "desire to please."

Cognitive Operations: Processes involved in thinking. 1. Cognition—comprehension or understanding, 2. Memory—retention and recall of information, 3. Convergent thinking—bringing together of known facts, 4. Divergent thinking—use of knowledge in new ways (creative thinking), 5. Evaluation—critical thinking.

Cognitive skills: The act or process of knowing. Analytical or logical thinking.

Community Advisory Committee (CAC): A committee of parents and guardians, including parents or guardians of individuals with exceptional needs, and representatives from schools and community agencies, which has been established to advise the SELPA regarding the development and review of programs under the comprehensive local plan.

Communicatively handicapped [CH or SI (speech impaired)]: Those students with disabilities in one or more of the communication skills, such as language, speech, and hearing.

Complaint: An alleged violation by a public agency of any federal or state law or regulation.

Confidentiality: Assurance that no information contained in school records be released without parental permission, except as provided by law.

Consent: Permission from the parent/student (eighteen years or older) required by law for assessment, development of a special education program, and placement.

Contractual support services: Specially allocated funds designated for special education students whose programs must be supplemented through outside sources.

Coordination, fine motor: Pertains to usage of small muscle groups (writing, cutting).

Coordination, gross motor: Pertains to usage of large muscle groups (jumping, running). 1. Bilateral—Ability to move both sides of the body at the same time (jumping), 2. Unilateral—Ability to move one side of the body without moving the other (hopping), 3. Cross lateral (cross-pattern)—Ability to move different parts of the opposite sides of the body together or in different sequences (e.g., skipping, which is a highly integrated movement).

Coordination, visual motor: The ability to relate vision with movements of the body or parts of the body.

Core Curriculum: The district/COE -defined curriculum. The core curriculum is the range of knowledge and skills which are included in the district-adopted course of study and which must be learned for successful grade promotion and graduation. The curriculum may include academic as well as cultural, social and moral knowledge and skills. IEP goals and objectives should reflect knowledge and implementation of the district's core curriculum as adapted for the student with disabilities.

Criterion-referenced testing (or measurements): Measures which answer the question, "What can this student do?" not "How does this student perform compared to other students?" Individual performance is compared to an acceptable standard (criterion)—such as "can correctly name letters of alphabet"—not to the performance of others as in norm-referenced testing .

Deaf: A student with a hearing loss so severe that it inhibits language processing and affects educational performance.

Deaf-blind: Hearing and vision impairments which result in severe communication and educational problems.

Decoding: Ability to change sounds or symbols into ideas.

Designated Instruction and Services (DIS): Instruction and services not normally provided by regular classes, resource specialist programs, or special classes or centers. They include such services as speech, occupational and physical therapy, and adapted physical education.

Developmental: Successive changes during the process of natural growth.

Diagnosis: The process of identifying the nature, cause, or extent of a disease or response; a term which comes to education from medicine.

Differential Standards for Graduation: If the IEP team determines that a special education student does not demonstrate evidence of the ability to attain the LEA's regular graduation proficiency standards with appropriate educational services and support, the IEP team develops differential proficiency standards or modified general differential standards, appropriate to the needs and potential of the student.

Directionality: Awareness of the two sides of the body and the ability to identify them as left and right and to project this correctly into the outside world, as in knowing which is the right hand of the person facing you.

Disability: Federal regulations, state statues and regulations have defined categories of disabilities which establish the eligibility for special education programs.

Due process: Legal procedural safeguards ensuring student and parent rights in the special education assessment, placement, and mediation procedures.

Educational record: Any item of information directly related to a specific student that is recorded by handwriting, tape, film, microfilm, or other means and maintained by a school or by any staff as required in the performance of his or her duty. Student records include information about a student gathered within or outside the school regardless of the form on which it is maintained. Any information maintained for second party review is part of the student's record. Student records do not include informal notes pertaining to the student that are in the sole possession of the writer and are not accessible or revealed to other parties.

Eligibility: The criteria for determining if a student has special education needs which cannot be met within the regular school program.

Encoding: Changing ideas into words or written symbols.

Evaluation, medical: Examination and diagnosis by a physician.

Evaluation, psychological or psycho-educational: An assessment to determine the level of functioning through the use of group and/or individual tests. The tests determine the level of functioning in three areas: (1) cognitive—how much one knows in certain areas, how one thinks; (2) affective—pertains to feelings or emotions; (3) perceptual-motor—control, coordination, and appropriate responses from all parts of the body. Recommendations for treatment or placement, when indicated, are made as a result of the evaluation.

Expressive language skills: Skills required to produce language for communicating with other people. Speaking and writing are expressive language skills.

Extended year: The term "extended year" means the period of time between the close of one academic year and the beginning of the succeeding academic year. The term "academic year" as used in this section means that portion of the school year during which the regular day school is maintained. An extended year program shall be provided for a minimum of 20 instructional days, including holidays. Schools must provide extended year services to individuals with disabilities if the gains for the child during the regular school year would be significantly jeopardized by a summer break without continuous structured programming. Whether or not an individual is entitled to extended school year services is determined by the IEP team.

Eye-motor coordination: The ability to relate vision with movements of the body or parts of the body.

Formal assessment: Using published, standardized tests, usually for measuring characteristics, such as "intelligence" or "achievement," rather than skills, such as "tying shoes" or "following directions;" tests which have a standard set of directions for their use and interpretation.

Foster Family: Education Code 56155 (b). . . .

Free appropriate public education (FAPE): Every school-age handicapped child is entitled to an education which meets his or her individual needs, whether it be in a public school setting or in a private school at public expense, if a public program is not available or appropriate.

Grade equivalent: The score a student obtains on an achievement test, translated into a standard score which allows the individual student's score to be compared to the typical score for students in his or her grade level. A "grade equivalent" score of 6.0 means the score that the average beginning sixth grader makes; a "grade equivalent" score of 6.3 means the score that the average student who has been in sixth grade for three months makes.

Group Home: A facility of any capacity which provides 24-hour nonmedical care and supervision to children in a structured environment, with such services provided at least in part by staff employed by the licensee.

Health impaired: Students who have persistent medical or health problems, such as heart conditions, epilepsy, diabetes, etc., which adversely affect their educational performance.

IDEA (individuals with exceptional needs): The Federal legislation that created amendments to PL 94-142, including changing the title of the Act from the "Education for the Handicapped Act" (EHA) to the "Individuals with Disabilities Education Act".

IEPT (individualized education program) team: Comprised of multidisciplinary staff which includes the surrogate parent and open to any other persons charged with care and education of courts wards and dependents in each local educational agency. The team is responsible for determining special education eligibility for individuals referred to special education services and appropriate educational program goals.

Individual with Exceptional Needs (IWEN): A pupil whose educational needs cannot be met by a regular classroom teacher with modifications of the regular school program and who requires

and will benefit from special instruction and/or services. Excluded are children whose needs are due solely or primarily to unfamiliarity with the English language or to cultural differences.

Individualized Education Program (IEP: The IEP is a written education plan for each special education student that includes instructional goals and objectives based upon the educational needs specified and developed by the IEP team.

Individualized Family Service Plan (IFSP): An IFSP is a written plan for providing early intervention services to a child eligible for early intervention service. The plan must be developed jointly by the family and appropriately qualified personnel involved in early intervention. The plan must be based on the multidisciplinary evaluation and assessment of the child and include the services necessary to enhance the development of the child and family's capacity to meet the child's special needs.

Informal assessment: Using procedures such as classroom observations, interviewing, or teacher-made tests which have not usually been tried out with large groups of people, and which do not necessarily have a standard set of instructions for their use and interpretation.

Integrated program: Refers to participation by students in a regular classroom for specified amounts of time during the school day.

Intelligence test: A standardized series of questions and/or tasks designed to measure mental abilities—how a person thinks, reasons, solves problems, remembers, learns new information. Many intelligence tests rely heavily on the use or understanding of spoken language. Some intelligence tests are designed to be given to one person at a time; these are called individual intelligence tests; others may be given to several persons at once and are called group intelligence tests. Both types of intelligence tests are given under controlled conditions involving standard instructions and time limits.

Intelligence quotient (I.Q.): The score obtained on a test of mental ability; it is usually found by relating a person's test score to his or her age.

Learning Disabilities: Significant delays in learning or social behaviors, such as learning disabilities, including disabilities resulting from visual perceptual disorders, visual motor disorders, behavior disorders, educational retardation, or a combination of these.

Least restrictive environment (LRE): The concept that each handicapped child is to be placed in a learning environment that most closely approximates the learning environment of his or her nonhandicapped peers (regular classroom) and provides for the most appropriate educational opportunities for the handicapped child.

Local Education Agency (LEA): A school district or county office of education which provides education services.

Local Plan: The state required plan (E.C. 56170) that designates how the local education agencies of the special education local plan area will meet both state and federal requirements for educating individuals with exceptional needs who reside in the geographical area served by the plan. The local plan must include the governance structure, administrative support, and agency responsibilities. The local plan is revised every three years as required by the Education Code.

Long-range goals: Global and general "aims statements" which describe what needs to be learned by the student.

Low Incidence Disability: A low incidence disability is a severe disability with an expected incidence rate of less than 1 percent of the total K-12 statewide enrollment. Low incidence disabilities include hearing impairments, visual impairments, and severe orthopedic impairments. (E.C. 56026.5)

Mediation: A conflict resolution process that can be used to resolve special education issues. A mediation is entered into prior to holding the due process hearing. It is the intent of the legislature that the mediation conference be an intervening, informal process conducted in a non-adversarial atmosphere that allows the parties to create their own solutions rather than having one imposed upon them through the judicial process. The mediation conference must be held within fifteen days of state receipt of a hearing request.

Modality: A way of acquiring sensation; visual, auditory, tactile, kinesthetic, olfactory, and gustatory are the common sense modalities.

Motor perceptual tests: Tests of eye and hand coordination.

Multihandicapped: Students with a combination of disabilities (such as mental retardation and deafness) which cause severe educational problems. Deaf-blind is not included in this category.

Neurological examination: Tests to determine dysfunction to the nervous system.

Nondiscriminatory assessment: Assessment tools and methods which are "fair" to the student in the sense that they are given in his or her native language; given and interpreted with reference to the child's age and socioeconomic and cultural background; given by trained persons; appropriate, even if the child has a physical, mental, speech, or sensory disability. Because some tests used in schools often do discriminate against certain students (e.g., by asking questions that relate to the experiences of white, middle-class, English-speaking persons), the term culturally appropriate assessment has come into use to emphasize that assessment must be fair to students of other language and cultural backgrounds.

Norms: Information, provided by the test-maker, about "normal" or typical performance on the test. Individual test scores can be compared to the typical score made by other persons in the same age group or grade level.

Occupational therapist: Trained in helping pupils develop daily living skills, e.g., self-care, prevocational skills, etc.

Occupational therapy (O.T.): Treatment provided by a therapist trained in helping the patient develop daily living skills in all areas of daily life, e.g., self-care, prevocational skills, etc.

Other Health Impaired: Students with physical impairments resulting from disease (such as polio), conditions such as cerebral palsy, or from amputations or birth defects which are so severe as to interfere with their educational performance.

Parent: The natural or adoptive parent, guardian, or person appointed to act as parent for a student (surrogate parent), or the student if eighteen years or older and determined to be competent by the individualized education program team coordinator.

Percentile: A point on a test score scale used to divide a set of group scores into sections. For example, the 75th percentile point separates the top quarter from the rest of the group.

Percentile rank: Is expressed as a number, between 0 and 100, that tells what percentage of individuals in a group got scores below a certain score. A percentile rank of 78 says that the person scored higher than 78 percent of the group and lower than the other 22 percent. Percentile rank should not be confused with percentage score on the test.

Perception: The process of interpreting sensory information. The accurate mental association of present stimuli with memories of past experience.

Perceptual-motor tests: A test that requires people to use their skills in receiving and interpreting sensory information in responding to tasks that require actions, such as drawing a line between two given lines, copying a circle, etc.

Perseveration: Continuing to behave or respond in a certain way when it is no longer appropriate. Difficulty in shifting from one task to another.

Personality test (or inventory): A test which measures characteristics, such as emotional control, honesty, attitudes, etc., rather than intellectual ability or academic achievement.

Physical therapist: A person trained in applying treatment to bones, joints, muscles, and nerves.

Physical therapy: Treatment of disorders of bones, joints, muscles, and nerves. With the prescription of a physician, the therapist applies treatment to the patient in the form of heat, light, massage, exercise, etc.

Phonetics: Study of all the speech sounds in the language and how these sounds are produced.

Phonics: Use of phonetics in the teaching of reading. Relating the sound (phoneme) of the language with the equivalent written symbol.

Prescriptive teaching: In an educational setting, "prescription" refers to planned activities, strategies, and programs that will help the student achieve stated goals and objectives.

Procedural Safeguards: Specific procedures designed by state and federal law to protect the rights of children, parents and school districts.

Program Specialist: A Program Specialist is a special education staff person who holds a valid special education credential, health services credential, or a school psychologist authorization, and who has advanced training and related experience in the education of individuals with exceptional needs and a specialized, in-depth knowledge of special education services. Often program specialists specialize or are assigned to provide expertise to specific categories of handicapping conditions such as orthopedically handicapped, severely handicapped, speech and language, etc.

Projective test: A test in which people are asked to respond freely and openly to questions or pictures which have no "right" answers. The assumption is that people "project" themselves and their feelings, needs, etc. as they respond. These tests are used to measure personality characteristics.

Psychomotor skills: Refers to muscle responses, including development of fine-motor small muscles (cutting, etc.) and large muscles (walking, jumping, etc.).

Public Law 94-142 (Education for the Handicapped Act (EHA) of 1975, now entitled IDEA): The federal legislation governing the education of all handicapped students. PL 94-142 mandates that all public schools in the U.S. are to provide "a free, appropriate public education and related services" to "all handicapped children." PL stands for Public Law, 94 means it was passed by the 94th Congress, and 142 is the number of the law

Public Law 101-476 (Education for the Handicapped Act Amendments): The Federal legislation that created amendments to PL 94-142, including changing the title of the Act from the "Education for the Handicapped Act" (EHA) to the "Individuals with Disabilities Education Act" (IDEA).

Reading comprehension: The ability to understand what one has read.

Receptive language: Receiving and understanding spoken or written communication. The receptive language skills are listening and reading.

Referral: The process of requesting an evaluation for a student who is suspected of having a learning disability. A referral is official and must be in written form; once it is made, time lines and procedural safeguards ensue.

Related services: Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a handicapped child to benefit from special education, and includes speech pathology and audiology, psychological services, physical and occupational therapy, recreation early identification, and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parent counseling and training.

Reliability: The extent to which a test provides precise or accurate measures.

Resource Specialist Program (RSP): The RSP setting provides instruction and services for those individuals with exceptional needs who are assigned to a regular classroom for the majority of the school day.

Scaled scores: The translation of "raw scores" (total points earned on a test) into a score which has similar meaning across age levels. If a scale from 0 to 20 is used, then a scaled score of 10 is an average score, regardless of whether it was obtained by a five-year-old or a fifteen-year-old.

School psychologist: A person trained to give psychological tests, interpret results, and suggest appropriate educational approaches to learning or behavioral problems.

Self-concept: A person's idea of himself or herself.

Self-help: Refers to feeding, dressing, and other activities necessary for functioning in a family, in school, and in the community.

Service provider: Refers to any person or agency providing some type of service to children and/or their families.

Severely handicapped (SH): Those students who require intensive instruction and training, such as developmentally handicapped, trainable mentally retarded, autistic, seriously emotionally disturbed.

Short-term objectives: A series of intermediate steps that will take the student from where he or she is now to accomplishing annual goals.

Small Family Home: Residential facility in the licensee's family residence providing 24-hour care for six or fewer children who are mentally disordered, developmentally disabled or physically handicapped and who require special care and supervision as a result of such disabilities. (Title 22, Regulations 8001 [45].

Social skills: The ability to get along with one's peers (friends) which includes self-concept or a person's idea of himself or herself and the ability to relate to peers and adults.

Social maturity: The ability to assume personal and social responsibility, expected of persons of similar age. Tests of social maturity measure of how well a person looks after his or her everyday needs (eating, dressing, etc.) and takes responsibility (goes to the store, does chores, etc.), as compared to other persons in his or her age group.

Special Classes: Public school classes which provide services to students with more intensive needs than can be met by the regular school program or Resource Specialist Program or Designated Instruction and Services. Students are enrolled in the special class for a majority of the school day and are grouped according to similar instructional needs.

Special education and related services: Special education refers to a set of educational programs and/or services designed to meet the individual needs of exceptional individuals whose needs cannot be met in the regular classroom. Related services means transportation and other developmental and supportive services (e.g., speech therapy, psychological services, counseling, social work, etc.).

Special Education Local Plan Area (SELPA): A SELPA may be a single LEA and/or county office or a group of LEAs and/or county offices that are organized within a geographic area to coordinate the administration and delivery of special education services within the region's boundaries.

Specific learning disability: This term refers to problems in academic functioning, such as writing, spelling, doing math, or reading, which cannot be explained by ability, vision, hearing, or health impairments.

Speech pathologist or therapist: Persons trained to provide analysis, diagnosis, and therapy for speech and language disturbances.

Standard deviation: Tells how much a score "deviates," or varies, from the mean score for the group. In a group of scores, the greatest number of scores will usually be close to the mean, or average score. The numerical value of a standard deviation unit is different from test to test, but scores which are more than one standard deviation unit above or below the mean occur less often.

Standardized Achievement Test: A series of questions designed to measure facts and information a student has learned in school. Some achievement tests are given to one person at a time and are called individual achievement tests; others (group tests) may be given to several persons at once. All standardized tests have sets of instructions which the person giving the test must follow exactly.

Student Study Team (SST): A team of educational personnel including classroom teachers who are responsible for developing modifications to the regular program and providing appropriate learning environments for students who may be exhibiting school related problems. Through combining knowledge and brainstorming efforts, the SST may generate solutions that enable students to remain in regular classrooms rather than be referred for special education programs.

Surrogate Parent:: A surrogate parent is a person appointed by the SELPA who acts as a child's parent for the purpose of the IEP process to ensure the rights of an individual with exceptional needs when no parent can be identified or located, or the child is a ward of the state and the parents do not retain educational rights for the child.

Symbolization: The process in which spoken or written symbols take on meaning; that is, are understood by the individual and in turn are used for a verbal or written expression.

Tactile: Sense of touch.

Test of auditory perception: A test that tells how well a youngster perceives or hears specific sounds.

Transition: Transition services are a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities is based upon the individual student's needs, taking into account the student's preferences and interests, and as appropriate include instruction, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation. The process begins at fourteen years or the ninth grade and includes the student, family, education personnel and vocational and adult service providers (Vocational Rehabilitation, Regional Center, Social Security, etc.).

Triennial Assessment: Every child shall have a complete reassessment every three years. This reassessment may occur sooner if requested by the parents or teacher. Preparation for the assessment follows the same process as for an initial evaluation, including the assessment plan with written parental consent, and the 50-day time line.

Validity: The extent to which a test really measures what it is intended to measure.

Visual discrimination: Using the eyes to discriminate letters and words.

Visual perception: The identification, organization, and interpretation of data received through the eye.

Visual-perception test: A test that requires the person to identify, organize, and interpret information received through the eyes—e.g., find a simple shape "hidden" in a complex picture.

Visually handicapped: Students who are blind or who have partial sight and who, as a result, experience lowered educational performance.

Vocational Aptitude (or Interest) Test: A test designed to give an indication of a person's potential to succeed in particular jobs or careers. The test is usually a questionnaire which asks the individual to describe his or her own characteristics. It is like a written interview.

Word attack skills: The ability to analyze words.

PART 8: BIBLIOGRAPHY

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